INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a comparison of the substantive revenue provisions of H.R. 4333 as passed by the House and the Senate. (A comparison of the technical corrections provisions of the bill is included in a separate staff document, JCX-30-88.)

The first part of this document provides a list of identical substantive revenue provisions (including identical effective dates) in the House bill and the Senate amendment. The second part is a comparison of the differing substantive revenue provisions in the House bill and the Senate amendment: (1) diesel fuel excise tax collection and exemption procedures; (2) additional simplification and clarification provisions; (3) extensions and modifications of expiring tax provisions; (4) other substantive revenue provisions; (5) revenue-increase provisions; (6) railroad unemployment and retirement provisions; and (7) Social Security Act and Medicare and Medicaid amendments.

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[1] This document may be cited as follows: Joint Committee on Taxation, *Comparison of Substantive Revenue Provisions of H.R. 4333 as Passed by the House and the Senate* (JCS-17-88), October 12, 1988.

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LIST OF IDENTICAL SUBSTANTIVE REVENUE PROVISIONS

The following is a listing of identical substantive revenue provisions (including identical effective dates) included in H.R. 4333 as passed by the House and the Senate. These revenue provisions are therefore not described in the spreadsheet comparison.

Individual Provision

- Business use of automobiles by rural letter carriers (sec. 332 of the House bill and sec. 760 of the Senate amendment).

Accounting Provisions

- Repeal uniform capitalization rules for free-lance authors, photographers, and artists (sec. 338(a) of the House bill and sec. 795(a) of the Senate amendment).
- Election of producers of pistachio nuts to deduct preproductive period costs currently (sec. 338(c) of the House bill and sec. 800(D) of the Senate amendment).
- Treatment of stock held in trust in determining whether certain corporations may use the cash method of accounting (sec. 342 of the House bill and sec. 754 of the Senate amendment).

Pension and Employee Benefit Provisions

- Treatment of joint and survivor annuities under QTIP rules (sec. 323 of the House bill and sec. 713 of the Senate amendment).
- Allow rural telephone cooperatives to establish section 401(K) plans (sec. 351 of the House bill and sec. 714 of the Senate amendment).
- Study of tax treatment of certain technical services personnel (sec. 355 of the House bill and sec. 723 of the Senate amendment).

Insurance Provisions

- Treatment of church self-insured death benefit plans as life insurance (sec. 343 of the House bill and sec. 717 of the Senate amendment).
- Minimum tax treatment of structured settlement arrangements (sec. 344(a) of the House bill and sec. 757 of the Senate amendment).
- Repeal of general creditor requirement for certain personal injury liability assignments (sec. 344(b) of the House bill and sec. 757 of the Senate amendment).

Excise Tax Provisions

- Certain tolerances permitted in determination of wine excise tax (sec. 374 of the House bill and sec. 730 of the Senate amendment).
- Gasoline wholesalers permitted to claim refunds on behalf of certain exempt users (sec. 375 of the House bill and sec. 731 of the Senate amendment).
- Exemption from truck excise tax where benefit accrues to the United States (sec. 376 of the House bill and sec. 800H of the Senate amendment).
- Exemption from harbor maintenance tax for cargo donated overseas for humanitarian purposes (sec. 377 of the House bill and sec. 726 of the Senate amendment).

Foreign Provisions

- Dual resident companies (sec. 356 of the House bill and sec. 745 of the Senate amendment).
- Election to treat passive foreign investment company (PFIC) stock as stock in a qualified electing fund (sec. 357 of the House bill and sec. 732 of the Senate amendment).
- Treatment of certain insurance branches of controlled foreign corporations (sec. 361 of the House bill and sec. 748 of the Senate amendment).
- Debt-equity ratio of Netherlands Antilles finance subsidiaries (sec. 359 of the House bill and sec. 800L of the Senate amendment).

Other Administrative Provision

- Disclosure of return information to certain cities (sec. 381 of the House bill and sec. 735 of the Senate amendment).

Miscellaneous Provisions

- Repeal of limitation on Treasury long-term bond authority (sec. 389 of the House bill and sec. 421 of the Senate amendment).
- One-year extension of place-in-service rule for nonconventional fuels tax credit (sec. 390 of the House bill and sec. 751 of the Senate amendment).

Revenue-Increase Provisions

- Valuation of group term life insurance (sec. 347 of the House bill and Senate amendment).
- Repeal special rates and credits for foreign estates (sec. 373 of the House bill and Senate amendment).

Item	Present Law	House Bill	Senate Amendment
I. DIESEL FUEL EXCISE TAX COLLECTION AND EXEMPTION PROCEDURES (Sec. 310 of the House bill and secs. 301-303 of the Senate amendment)	(a) Exemptions from tax The excise taxes on diesel and nongasoline aviation fuels are imposed on the sale of the fuels by a producer. Producers include wholesale distributors as well as refiners and certain other intermediate persons (other than retailers) in the distribution chain. Exemptions are provided from the diesel fuel tax for State and local governments, farms, nonprofit educational organizations, and business use other than as a fuel in a highway vehicle. The tax on nongasoline aviation fuel applies only to fuel used in noncommercial aviation. Treasury is authorized to permit tax-free sales in the case of diesel fuel for use in a diesel-powered train; use as commercial aviation fuel; use other than as a motor fuel; use by a State or local government.	(a) Expansion of exempt persons able to purchase fuels tax-free The bill makes mandatory and extends the current provisions allowing certain tax-free purchases of diesel and nongasoline aviation fuels to all off-highway business users.	(a) Expansion of exempt persons able to purchase fuels tax-free Same as the House bill, except also extends the tax-free purchase rule to private buses currently eligible for a full or partial refund of the diesel fuel tax.
	(b) Treasury requirements Producers of taxable fuels must register with Treasury and satisfy Treasury bonding requirements.	(b) Treasury requirements (1) Exempt users may purchase such fuels tax-free when they purchase in bulk directly from a producer (including a wholesale distributor) and when Treasury-prescribed registration, financial responsibility, and information reporting requirements are met. Marine retail dealers who exclusively sell diesel fuel to water users are treated as producers. Treasury is authorized to issue regulations imposing expanded information reporting requirements on both seller and exempt purchasers. (2) Treasury is required to issue initial rules regarding registration and financial responsibility requirements for exempt users purchasing fuel tax-free within 30 days after the date of enactment.	(b) Treasury requirements (1) Same as the House bill. (2) Same as the House bill, except Treasury is required to issue such rules before October 1, 1988.

Item	Present Law	House Bill	Senate Amendment
	(c) Refunds of tax (1) Since April 1, 1988, the exemptions from these fuels taxes are realized through refunds or credits, rather than tax-free sales as under prior law.	(c) Refunds (1) A special, one-time refund is provided for off-highway exempt users newly authorized to purchase diesel fuel tax-free. Such users may file a claim for refund of tax paid after March 31, 1988 and before July 1, 1988, regardless of the amount of tax.	(c) Refunds (1) Same as the House bill, except that the claim for the special refund may be made for tax paid after March 31, 1988, and before October 1, 1988.
	(2) A person entitled to a refund of $1,000 or more during any one of the first three calendar quarters of a year may file a claim for refund of tax paid for that quarter. Otherwise, the refund claim can be made only at the end of the calendar year.	(2) No provision.	(2) The refund threshold is changed so that an exempt user may file for a refund if at least $750 in tax (in the aggregate) is paid as of the end of any of the first 3 calendar quarters (without waiting until after the end of the year).
	(d) Interest on refunds No interest is paid on refunds of these excise taxes.	(d) Interest on refunds (1) The special refund, (c)(1) above, is to be made with interest, determined at the regular deficiency rate paid by the Federal Government on overpayments of tax.	(d) Interest on refunds (1) The special refund, (c)(1) above, is to be made with interest, determined at the interest rate charged by the Federal Government on tax deficiencies.
		(2) No provision.	(2) Where fuel is purchased tax-paid by an exempt user (e.g., from a retail dealer), State and local governments and off-highway exempt users (other than bus operators) will be paid interest on refund claims at the regular deficiency rate.
		Effective date.--Generally, applies to such fuels sold after June 30, 1988.	Effective date.--Generally, applies to such fuels sold after September 30, 1988.

Item	Present Law	House Bill	Senate Amendment
II. ADDITIONAL SIMPLIFICATION AND CLARIFICATION PROVISIONS **A. Sanction for Violation of Health Care Continuation Rules (sec. 321 of the House bill and sec. 431 of the Senate amendment)**	Certain group health plans are required to satisfy health care continuation rules (sec.162(k) of the Code). In general, pursuant to these rules, an employer is required to provide qualified beneficiaries with the opportunity to participate for a specified period in the employer's health plan after the occurrence of a qualifying event that otherwise would have terminated such participation. If a plan subject to the health care continuation rules fails to satisfy the rules, all deductions for expenses paid or incurred for group health plans by the employer maintaining such plan are disallowed for the year in which the failure first occurs and all subsequent years up to and including the year in which the failure is corrected. In addition, the exclusion from income for employer-provided health coverage does not apply to the employer's highly compensated employees for the time of the failure to satisfy the health care continuation rules.	In general.--The House bill replaces the present-law sanctions for failures to satisfy the health care continuation rules with an excise tax.	In general.--Same as the House bill, with the exceptions noted below.
		Amount of excise tax.--The amount of the excise tax is $100 per day during the noncompliance period with respect to a failure to satisfy the health care continuation rules. The tax applies separately with respect to each qualified beneficiary for whom a failure occurs.	Amount of excise tax.--Same as House bill, except that if a failure occurs with respect to members of the same family, the excise tax applies only once with respect to the failure.
		Noncompliance period.--The noncompliance period generally begins on the date a failure first occurs and ends on the earlier of (1) the date the failure is corrected, or (2) the date that is one year after the last date on which the employer could have been required to provide continuation coverage to the qualified beneficiary. Subject to special rules described below, the noncompliance period does not start on the date the failure first occurred if it can be established that none of the persons who could be liable for the tax knew, or should have known, that the failure existed. In such a case, the noncompliance period does not begin until any of such persons knew or should have known of the failure.	Noncompliance period.--Same as the House bill, except that the general noncompliance period begins on the date a failure first occurs and ends on the earlier of (1) the date the failure is corrected, or (2) the date that is the last date on which the employer could have been required to provide continuation coverage.

Item	Present Law	House Bill	Senate Amendment
A. Sanction for Violation of Health Care Continuation Rules--Cont.		Grace period.--The excise tax generally does not apply to any failure if such failure was due to reasonable cause and not to willful neglect and the failure is corrected within the first 30 days of the noncompliance period.	Grace period.--Same as House bill.
		Audit rule.--A special audit rule overrides the inadvertent-failure and grace-period rules. Under the audit rule, if a failure with respect to a qualified beneficiary is not corrected by the date a notice of examination of income tax liability is sent to the employer and the failure occurred or continued during the period under examination, the excise tax is not to be less than the lesser of (1) $2,500 or (2) the excise tax determined without regard to the inadvertent-failure and grace-period rules. If failures for any year are more than de minimis with respect to the employer (or multiemployer plan in the case of coverage under such a plan), $15,000 is substituted for $2,500 for that year with respect to such employer (or multiemployer plan) and any other person liable with respect to the failure.	Audit rule.--Same as the House bill, except that if the excise tax is imposed on a person other than the employer (or multiemployer plan in the case of coverage under such a plan), only violations of the continuation coverage rules by such other person are taken into account in determining whether the violations are de minimis.
		Maximum liability.--In the case of failures with respect to plans other than multiemployer plans, the maximum excise tax for failures during an employer's taxable year is the lesser of (1) 10 percent of the total amount paid or incurred by the employer during the preceding taxable year for the employer's group health plans, or (2) $500,000. In the case of failures with respect to a multiemployer plan, the maximum excise tax for failures during the taxable year of the trust that is part of the plan is the lesser of (1) 10 percent of the total amount paid or incurred by the trust to provide medical care, or (2) $500,000. These caps on the amount of the excise tax do not apply if the failure is due to willful neglect.	Maximum liability.--Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
A. Sanction for Violation of Health Care Continuation Rules--Cont.		Liable persons.--In the case of a failure with respect to coverage provided by a plan other than a multiemployer plan, the employer is liable for the excise tax. In addition, any other person is liable for the tax if the person (1) is responsible for administering or providing benefits under the plan pursuant to a legally enforceable written agreement, and (2) failed to perform one or more of such responsibilities and thereby caused (in whole or in part) the failure. In addition, another person may be liable for the excise tax if the person fails to comply with a written request of the employer (or qualified beneficiary or plan administer) to make available to qualified beneficiaries the same benefits that the person provides to similarly situated active employees. In the case of a multiemployer plan, the rules described above apply, except that "multiemployer plan" is substituted for "employer". Waiver.--The Secretary may waive all or part of the excise tax if the failure is due to reasonable cause and not to willful neglect to the extent the tax would be unduly burdensome relative to the failure. Effective date.--Taxable years beginning after December 31, 1988.	Liable persons.--Same as the House bill, except that the Senate amendment does not contain the provision providing that persons are liable for the excise tax if they are responsible for administering or providing benefits under a written agreement. Waiver.--Same as the House bill, except that the Secretary may waive to the extent the tax would be excessive. Effective date.--Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
B. Nondiscrimination Rules for Statutory Employee Benefit Plans (Sec. 322 of the House bill and sec. 432 of the Senate amendment)			
a. Treasury rules	(a) Present law does not require the Secretary to issue rules under section 89 by any specified date.	(a) The Secretary is required to issue rules by October 1, 1988, providing guidance under section 89 on which employers may rely. Such guidance is to address those areas not addressed by the statute or legislative history and with respect to which employers need immediate guidance in order to comply with the nondiscrimination rules.	(a) The Senate amendment modifies the House bill with respect to the issuance of rules by the Secretary by specifying that the rules are to include guidance with respect to the qualification requirements and the line of business or operating unit rules. The guidance with respect to the line of business or operating unit rules is to address the treatment of headquarters employees in a manner that facilitates administration of the rules within the expressed intent of the legislation.
b. Good faith	(b) With respect to any statutory requirement, in the absence of rules issued by the Secretary, taxpayers are required to comply with the statute based on its terms and its legislative history.	(b) Until the issuance of rules by the Secretary, an employer's compliance with its reasonable interpretation of section 89 based on the statute and its legislative history, if made in good faith, constitutes compliance with section 89.	(b) Same as the House bill.
c. Testing period	(c) Under present law, each plan is tested for discrimination under section 89 based on its plan year. If an employer maintains plans of the same type with different plan years, generally such employer is required to apply the nondiscrimination rules to all such plans during each such plan year because application of the nondiscrimination rules generally requires aggregation of all plans of the same type.	(c) An employer may designate in its plans a common 12-month period for testing all or some of its plans even if such plans have different plan years and even if none of the plans' plan years is the same as the common 12-month testing period. (The testing period chosen by the employer, whether it is this common 12-month period or each plan year, is referred to as the testing year.)	(c) Same as the House bill.
d. Testing date	(d) Under present law, the nondiscrimination rules generally apply based on benefits available and provided during the entire year.	(d) Generally, the nondiscrimination rules are applied based on the benefits available and provided on one day in a year (with appropriate adjustments for plan design changes and highly compensated employee elections). The testing date is required to be designated in the plan and consistently applied. For years beginning in 1989, however, the consistency requirement does not apply. Also, the sworn statements regarding family status and core health coverage from another employer generally are required to relate to the facts in existence on the plan's testing date. This requirement does not apply to years beginning in 1989.	(d) Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
e. Sampling	(e) Under present law, employers are required to demonstrate compliance with section 89 based on data with respect to all of their employees.	(e) Employers are entitled to demonstrate compliance with section 89 on the basis of a statistically valid random sample of employees that is not inconsistent with rules prescribed by the Secretary. Such random sampling may be performed only by an independent third party. For this purpose, sampling is treated as valid only if the statistical method and sample size produce a 99-percent level of confidence that the sample results have a margin of error not greater than two percent.	(e) The sampling rules of the House bill are modified by providing that sampling is treated as valid if the statistical method and sample size produce a 95-percent level of confidence that the sample results have a margin of error not greater than three percent.
f. Valuation	(f) For purposes of the nondiscrimination rules under section 89, the Secretary is to promulgate tables that establish the relative values of accident or health coverage with any set of characteristics. Such tables may use an identifiable standard plan as a reference point. These tables are to provide the exclusive means of valuing accident or health coverage. Such tables are to be adjusted in certain instances to take into account the specific coverage and group involved. For example, in determining the value of discriminatory coverage, the actual costs expended by the employer may be taken into account and allocated among all coverages, including the discriminatory coverage, on the basis of the relative values of such coverages, as determined under the tables.	(f) Under the House bill, any rules issued by the Secretary with respect to the valuation of accident or health coverage are effective as of the latest of (1) the first testing year beginning at least 6 months after issuance of such rules, (2) the first testing year beginning after December 31, 1990, or (3) the effective date specified by the Secretary for such rules. In addition, the House bill provides a temporary special valuation rule that applies prior to the effective date of rules issued by the Secretary. The House bill also provides that both during and after the application of the temporary special valuation rule, in determining the benefits provided under a multiemployer plan, an employer generally may treat the contribution it makes to the plan on behalf of an employee as the benefit provided to the employee under such multiemployer plan. This special rule for multiemployer plans does not apply to a multiemployer plan that covers any professional (e.g., a doctor, lawyer, or investment banker).	(f) The Senate amendment modifies the House bill provision regarding the effective date of rules issued by the Secretary with respect to the valuation of accident or health coverage by requiring that such rules be effective no earlier than the first year beginning at least 1 year after the issuance of such rules. The Senate amendment modifies the House bill with respect to the special valuation rule for benefits provided under a multiemployer plan based on the employer contribution. The amendment provides that the Secretary is to prescribe rules for the allocation of contributions that relate to benefits of different types. Under such rules, the allocation may be based on the prior year's claims or premiums, if this is reasonable under the circumstances. The amendment also clarifies that an employer may value benefits provided under a multiemployer plan under the generally applicable valuation rules without regard to the special rule.
g. Comparability	(g) Under present law, for purposes of applying the 80-percent test to accident and health plans, in general, a group of plans are comparable and may be aggregated as one plan if the least valuable plan has a value of at least 95 percent of the value of the most valuable plan.	(g) Under the House bill, an employer may elect to reduce the 95-percent figure to 80 percent. However, in any year that election is made, the 80-percent test is modified to be a 90-percent test.	(g) The general standard for comparability--that the least valuable plan have a value equal to at least 95 percent of the value of the most valuable plan -- is modified by substituting 90 percent for 95 percent.

Item	Present Law	House Bill	Senate Amendment
h. Comparability safe harbor	(h) No provision.	(h) No provision.	(h) For purposes of the 80-percent test, a group of plans are treated as comparable with respect to a group of employees if: (1) such plans are available to all employees within the group on the same terms; and (2) the difference in annual cost to the employees between the plan in the group with the smallest employee cost and the plan in the group with the largest employee cost is not more than $100 (indexed beginning in 1990 for increases in the consumer price index). For purposes of the $100 allowable cost differential, employee contributions may be compared only with other employee contributions made on the same basis (i.e., after-tax as opposed to pre-tax). If the employer elects to test coverage of employees separately from coverage of spouses and dependents, the $100 allowable cost differential may be allocated between coverage of employees and coverage of spouses and dependents in any way elected by the employer (e.g., $40 for employee coverage and $60 for coverage of spouses and dependents). In addition, any other plan may be aggregated with the group of plans described above if such other plan is comparable (under the otherwise applicable comparability standard) to the plan within the group with the largest employer-provided benefit. A plan also may be treated as comparable to the group of plans described above with respect to an employee if (1) the employee is eligible under the plan within the group with the largest employer-provided benefit, (2) the contribution under the plan outside the group is within the range permitted with respect to the group of plans, and (3) the employer-provided benefit under the plan outside of the group is less than the employer-provided benefit under the plan within the group with the largest such benefit. The first two requirements in the prior sentence only apply to nonhighly compensated employees.

Item	Present Law	House Bill	Senate Amendment
i. Benefits test aggregation	(i) Under present law, in applying the 75-percent benefits test to plans other than accident or health plans (but not in applying the test to accident or health plans), the employer may aggregate with such plans all plans of one or more different types (i.e., plans providing benefits excludable under one or more different Code sections). Thus, all accident or health plans may be aggregated with plans of a different type to help the non-accident or health plans satisfy the 75-percent test, but not to help the accident or health plans satisfy such test. However, if accident or health plans are aggregated with plans of a different type, certain special rules for accident or health plans do not apply. Specifically, coverage of employees may not be tested separately from coverage of spouses and dependents and individuals may not be disregarded based on receipt of core health coverage from another employer.	(i) No provision.	(i) The Senate amendment liberalizes in two respects an employer's ability to aggregate plans of different types for purposes of the 75-percent benefits test. First, the amendment allows benefits of one or more types to be aggregated with all accident or health benefits in order to help the accident or health benefits satisfy the 75-percent benefits test. If the employer elects to test employee accident or health coverage separately from coverage of spouses and dependents, the non-accident or health benefits may be aggregated all with the employee coverage, all with the coverage of spouses and dependents, or partially with respect to each (provided that there are no benefits of the same type not aggregated with either). The second modification of the aggregation rules is that an employer may aggregate accident and health benefits with benefits of a different type for purposes of the 75-percent benefits test even if the employer elects to apply the 75-percent benefits test separately to coverage of employees and coverage of employees' spouses and dependents. In the event of such separate testing, the employer may aggregate with the benefits of another type the employee coverage, the coverage of the spouses and dependents, or both; however, for purposes of this aggregation, no employee or family member may be disregarded based on the receipt of other health coverage or on not having a family.

Item	Present Law	House Bill	Senate Amendment
j. Elective contributions under the 90-percent/50-percent test	(j) Under present law, any elective contributions that an employee may make under a cafeteria plan are disregarded for purposes of the 90-percent/50-percent test.	(j) No provision.	(j) Under the Senate amendment, elective contributions under a cafeteria plan may be taken into account for purposes of the 90-percent/50-percent test if the following requirements are satisfied: (1) the percentage of nonhighly compensated employees eligible under the plan is equal to or less than the percentage of highly compensated employees eligible under the plan; (2) all employees eligible under the plan are eligible under the same terms and conditions; and (3) no highly compensated employee eligible under the plan is eligible outside of the cafeteria plan for any benefit of the same type that is not available on the same terms and conditions to every nonhighly compensated employee eligible under the plan. Under the Senate amendment, an employer may establish a limit on the available elective contributions taken into account with respect to any employee for purposes of the 90-percent/50-percent test.
k. Definition of plan	(k) Generally, under present law, each different option is a separate plan.	(k) Under the House bill, each different option is valued separately, but is not considered a separate plan. A plan is a group of options with comparable values (under the otherwise applicable comparability rules). With respect to the nondiscrimination rules, the effect of these changes is only one of terminology rather than of substance. (For convenience, the present-law terminology is used throughout this document.)	(k) Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
1. Plan definition group-term life insurance	(l) Generally, under present law, if two types of insurance coverage vary in any way, they will be considered separate plans.	(l) The House bill provides an exception to the general rule that if two types of insurance coverage vary in any way, they will be considered separate plans. Under this exception, under rules prescribed by the Secretary if, with respect to group-term life insurance coverage, the required employee contributions vary according to the age of the employee, this variation will not preclude treatment of the coverage as a single plan.	(l) Under the Senate amendment, the House bill exception applies in the same manner to group-term life insurance coverage under which required employee contributions vary according to the age of the employee, but only up to a specified limit (e.g., the employee's cost may not exceed $X per $1,000 of coverage). The Senate amendment also deletes the House bill provision under which an employer that uses the exception in the House bill for age-related costs or the exception provided above must use the same exception with respect to all group-term life insurance coverage of the employer. Under the amendment, if one of the exceptions is used with respect to a plan, the same exception must be used with respect to all plans aggregated with such plan for purposes of the 50-percent test and the 80-percent test. In addition, for purposes of applying the 90-percent/50-percent test and the 75-percent test, the employer must elect to apply the tests as if it had used the general rule or one of the two exceptions with respect to all plans being tested.

Item	Present Law	House Bill	Senate Amendment
m. Sworn statements	(m) For purposes of applying the benefits test to accident or health plans, an employer generally may elect to disregard any employee or family member of an employee if such individual is covered by a health plan that provides core benefits and that is maintained by another employer of the employee or of the employee's spouse or dependent. (See sec. 89(g)(2)(d)). For purposes of the same test, if the employer elects to test separately the coverage of spouses and dependents, the employer may disregard employees who do not have a spouse or dependent. In general, an employer who elects either of these optional rules is required annually to obtain and maintain adequate sworn statements on an IRS form to demonstrate whether individuals have core health coverage from another employer and whether employees have families. Present law permits employers to secure the sworn statements from a statistically valid sample of all employees.	(m) The present-law rules governing sworn statements are modified by (1) not requiring that the statements be on an IRS form; and (2) directing the IRS to supply language for inclusion on appropriate employer documents (such as enrollment forms). In addition, after initial enrollment, the sworn statements are required to be collected no more frequently than once every three years except to the extent that an employee otherwise makes an election with respect to an employee benefit program (including an election not to participate). Further, no nonhighly compensated employee (or family member) may be disregarded based on their receipt of other core health coverage unless the employee has the right, if such other coverage ceases, to elect health coverage from the employer without regard to whether it otherwise is open season. For all purposes, such election is to be on the same terms as if such employee initially had elected health coverage from the employer and at a subsequent open season was changing such coverage. A similar rule applies in the case of the treatment of an employee as not having a family. The modifications described in this paragraph apply to years beginning after December 31, 1989. Also under the bill, an employer ("first employer") may treat an individual as having core health coverage from another employer without a sworn statement if (1) the first employer makes core health coverage available to the individual at no cost, and (2) such coverage and all other core health coverage from the first employer are rejected.	(m) Under the Senate amendment, the right of an employee to elect health coverage from the employer without regard to whether it is open season is to be on the same terms as if the employee initially had opted out of health coverage (individual coverage or coverage of his or her spouse and dependents, as the case may be) and at a subsequent open season was electing coverage. Thus, if the employer generally requires such employees to demonstrate evidence of insurability at open season, the employer may do so under this special rule. Also, the coverages required to be made available to the employee are those, if any, that would be available during open season to a similarly situated employee.
n. Other coverage	(n) Under present law, for purposes of applying the 75-percent benefits test to accident or health plans, an employer generally may disregard any employee or family member of an employee if such individual receives core health coverage from another employer of the employee or of the employee's spouse or dependents.	(n) The House bill expands the "other coverage" rule in two respects. First, under the bill, an individual could be disregarded based on core health coverage received from another employer of any family member, including a parent. Second, with respect to testing accident or health coverage, the 80-percent test is modified to have two parts: (1) the present-law 80-percent coverage requirement with the "other coverage" rule described above, and (2) a requirement that the plan be available to 80 percent of the employer's nonhighly compensated employees.	(n) Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
o. Line of business	(o) Under present law, generally, if an employer is treated as operating separate lines of business or operating units for a year (sec. 414(r)), the employer may apply the section 89 nondiscrimination rules separately to each separate line of business or operating unit for that year. This rule does not apply, however, to any plan that does not satisfy the classification test on an employer-wide basis. The classification test generally is based on prior-law section 410(b)(1)(B) (as modified judicially and administratively in the future), but with the present-law definitions of highly compensated employees and excluded employees. For purposes of the rule described above, a bona fide line of business or operating unit is not treated as separate unless (1) it has at least 50 employees; (2) the employer notifies the Secretary with respect to the line or unit; and (3) either certain guidelines are satisfied or a determination is received from the Secretary. There is a safe-harbor method of satisfying the third requirement based on the proportion of highly compensated and nonhighly compensated employees in the line of business or operating unit (sec. 414(r)(3)). In addition, an operating unit is not recognized for purposes of these rules unless, for a bona fide business reason, it is operated separately in a geographic area significantly separate from another operating unit in the same line of business. Present law provides special rules for allocating employees who work for more than one line of business or operating unit to a particular line of business or operating unit. The first step in such allocation is to allocate to a line of business or operating unit any employee who performs a majority of his or her service for such line of business or operating unit.	(o) Generally, the safe-harbor rule for lines of business or operating units (sec. 414(r)(3)) may be applied based on the proportions of highly compensated employees in the preceding testing year. The present-law rules that allocate to a line of business or operating unit any employee who performs a majority of his or her services for such line of business or operating unit are modified so that only employees who perform at least 75 percent of their services for a particular line of business or operating unit are required to be allocated to such line or unit. The modifications described above with respect to separate lines of business or operating units also apply for qualified plan purposes.	(o) Generally, same as the House bill but with two additional provisions. Under the Senate amendment, activities are considered geographically separate for purposes of the operating unit rules if they are at least 35 miles apart. In addition, for testing years beginning in 1989, the classification test--passage of which is required to use the separate line of business or operating unit rule--is to be the prior-law section 410(b)(1)(B) test without regard to any modification of such test by the Secretary. These two provisions only apply for purposes of section 89 (and thus would not apply for purposes of the qualified plan coverage test).

Item	Present Law	House Bill	Senate Amendment
p. Acquisitions and dispositions	(p) Under present law, a special rule applies to facilitate the application of sections 89 and 410(b) in the case of certain dispositions or acquisitions of a business.	(p) No provision.	(p) Under the Senate amendment, the Secretary is authorized to prescribe additional rules with respect to the application of sections 89 and 410(b) in the case of certain business transactions. Such rules should facilitate the application of sections 89 and 410(b) in such cases, but at the same time ensure that repeated transactions do not provide a means of avoiding section 89 or section 410(b).
q. Definition of highly compensated employees	(q) In general, under present law, an employee, including a self-employed individual, is treated as highly compensated with respect to a year if, at any time during the year or the preceding year, the employee (1) was a 5-percent owner of the employer (as defined in sec. 416(i)); (2) received more than $75,000 in annual compensation from the employer; (3) received more than $50,000 in annual compensation from the employer and was a member of the top-paid group (generally, the top 20 percent by compensation) during the same year, or (4) was an officer of the employer (generally, as defined in sec. 416(i)).	(q) Employers are entitled to elect to determine their highly compensated employees under a simplified method. The simplified method is the same as present law with the following exception. An electing employer is not required to determine the employees who (1) received more than $75,000 in annual compensation from the employer, or (2) received more than $50,000 in annual compensation from the employer and were members of the top-paid group. In lieu of these determinations, the employer is required simply to determine the employees who received more than $50,000 in annual compensation from the employer. An employer is not entitled to make this election with respect to a current testing year unless (1) the employer did not maintain a top-heavy plan (sec. 416) at any time during such year, and (2) at all times during such year, the employer maintained business activities and employees in at least two geographically separate areas.	(q) The Senate amendment modifies the House bill rule providing an alternative means of determining an employer's highly compensated employes. The amendment deletes the requirements that an employer operate in at least two geographic areas and not maintain any top-heavy plans in order to use this alternative rule.
r. Excluded employees under multiemployer plans	(r) Generally, under present law, for purposes of the nondiscrimination rules, employees who have not completed one year of service (or, in the case of core health benefits, six months of service) are disregarded. However, the one-year and six-month figures generally are reduced to the shortest initial service requirement applicable to any employee for eligibility in a plan of the same type.	(r) Under the House bill, the initial service requirement applicable under a multiemployer plan is not taken into account in determining the extent to which the one-year and six-month figures are reduced. This special rule for multiemployer plans does not apply to a multiemployer plan that covers any professional (e.g., a doctor, lawyer, or investment banker).	(r) The Senate amendment extends the rule in the House bill with respect to the initial waiting period for multiemployer plans to employees excluded based on their age, part-time status, or seasonal status. Thus, the exclusion (or lack thereof) under a multiemployer plan (as defined under the House bill) of employees based on age, part-time status, or seasonal status would not affect the employer's ability to disregard employees based on different age, part-time, or seasonal rules.

Item	Present Law	House Bill	Senate Amendment
s. Part-time employees	(s) Under present law, under certain circumstances, employees who normally work less than 17-1/2 hours per week are disregarded in applying the nondiscrimination rules. There also are special rules for employees who work less than 30 hours per week.	(s) The House bill provides a simplified method of determining the number of hours an employee is considered to work normally in a week. Until the end of the applicable testing year in which an employee commences work, an employee is considered to work normally the average number of hours such employee is scheduled to work during such year (disregarding any time the employee is not employed by the employer). The determination of the average scheduled hours is to be made in good faith and is to take into account periods in which it is expected that hours will be higher due to, for example, seasonal business cycles. For subsequent testing years, an employee is considered to work normally the average number of hours worked during the preceding testing year (disregarding any time the employee was not employed by the employer). In determining the number of hours an employee has worked or is scheduled to work, rules similar to the qualified plan "hour of service" rules apply.	(s) The House bill method for determining the number of hours an employee is considered to work normally in a week is modified. Under the Senate amendment, for a testing year, an employee is considered to work normally the average number of hours worked during the period in the testing year prior to the testing date. If such period is less than 60 days, an employee is considered to work normally (1) the average number of hours worked during the prior testing year, or (2) if the employee did not work at least 60 days during the prior testing year, the average number of hours such employee is scheduled to work, as of the testing date, during the longer of (i) the next 60 days, or (ii) the period between the testing date and the end of the testing year. For purposes of all of the above rules, periods during which an employee does not work are disregarded. The amendment follows the House bill with respect to how scheduled hours are to be determined and the definition of hours worked. In addition, present law permits the employer-provided benefit to be proportionately reduced under specified rules for employees who normally work less than 30 hours per week. These rules may not be applied, however, for any purpose in a plan year unless during such year more than 50 percent of the nonexcludable employees (determined without regard to plan provisions) normally work at least 30 hours per week. The amendment would allow the proportional reduction without regard to the 50-percent test described in the preceding sentence.

Item	Present Law	House Bill	Senate Amendment
t. **Definition of compensation**	(t) For purpose of applying the nondiscrimination rules to group-term insurance, compensation, as defined under section 414(s), may be taken into account (subject to the limitation under sec. 401(a)(17)), so that coverage that is proportional to such compensation is nondiscriminatory.	(t) No provision.	(t) The Senate amendment modifies the definition of compensation for purposes of applying section 89 to group-term life insurance. Under the amendment, for testing years beginning in 1989 and 1990, an employer may apply section 89 to group-term life insurance by using, in lieu of compensation as defined under section 414(s), base compensation. Thus, for example, overtime and bonuses are disregarded. For testing years beginning after December 31, 1990, the employer may use base compensation, or another definition of compensation, provided that based on the experience in the prior year such definition of compensation is not discriminatory. A definition of compensation will be considered nondiscriminatory if the ratio of (i) the average compensation of the nonhighly compensated employees under the alternative definition to (ii) the average compensation of the nonhighly compensated employees under section 414(s) is at least 90 percent of the same ratio for highly compensated employees.
u. **Qualification requirements**	(u) Under present law, certain employee benefit plans, including accident or health plans, are subject to certain qualification rules. One of those rules is that the plan is required to be in writing.	(u) Employers are entitled to comply with the written plan requirement of section 89(k)(1)(A) for any plan year beginning in 1989 by completing the required, full written documentation by the end of such plan year. For years beginning after 1989, rules prescribed by the Secretary are to permit employers a reasonable period to move a written plan evidenced by a collection of separate written documents to a written plan evidenced by a stand-alone document.	(u) The Senate amendment deletes the implication in the bill that, after a transition period, the writing requirement may only be satisfied by a stand-alone document.

Item	Present Law	House Bill	Senate Amendment
v. **Former employees**	(v) Benefits provided by employers to former employees are subject to section 89.	(v) Employees who separated from service prior to January 1, 1987, generally may be disregarded in applying the nondiscrimination rules to former employees, except with respect to benefit increases after the effective date of section 89.	(v) The Senate amendment makes three modifications to the House bill with respect to former employees. First, the grandfather rule applies to all employees who separated from service prior to January 1, 1989 (rather than January 1, 1987), with respect to the level of benefits provided on December 31, 1988. Second, any Federally mandated increase with respect to an employee who separated from service prior to January 1, 1989, is not considered a benefit increase and thus would be included within the grandfather rule. Third, a benefit increase after December 31, 1988, with respect to an employee who separated from service before January 1, 1989, is disregarded if (1) it is provided in the same manner to employees who separated from service after December 31, 1988, as it is to employees who separated from service before January 1, 1989, and (2) the benefit increase is nondiscriminatory with respect to employees who separated from service after December 31, 1988. A benefit increase will be considered provided in the same manner to the two groups of former employees if it is provided to the same reasonable classes of former employees within each group (e.g., all employees who satisfied certain reasonable length of service requirements).
w. **Penalty for failure to report**	(w) Except to the extent provided by the Secretary, if an employer (including an employer exempt from tax) does not report the discriminatory excess to the affected employees and the IRS on Forms W-2 by the due date (with any extension) for filing such Forms W-2, all benefits of the same type provided to such employees are subject to an employer-provided sanction without regard to whether the employees report some or all of the benefits as income. Under this sanction, the employer is liable for a tax at the highest individual rate on the total value of benefits of the same type provided to employees with respect to whom the employer failed to report the discriminatory excess. This tax, however, does not apply if the employer can demonstrate that the failure to report was due to reasonable cause.	(w) The penalty tax on the employer for the failure to report discriminatory excess with respect to an employee is the penalty tax determined under present law reduced, prior to multiplication by the highest individual rate, by the amount of the discriminatory excess properly reported by the employer in a timely fashion. The same rule applies in the case of amounts includible by reason of a failure to satisfy the qualification rules.	(w) Under the Senate amendment, the penalty for failure to report income includible under section 89 only applies to the portion of the employee's benefit that bears the same relationship to the total benefit as the unreported amount bears to the entire amount that should have been reported.

Item	Present Law	House Bill	Senate Amendment
x. Dependent care assistance	(x) Under present law, a benefits test applies to dependent care assistance programs that are not treated as statutory employee benefit plans under section 89 (sec. 129(d)(8)). For purposes of applying this benefits test to salary reduction amounts, employees with compensation (as defined in sec. 414(q)(7)) below $25,000 are to be disregarded.	(x) The House bill allows employers to elect to take into account employees with compensation below $25,000 for purposes of applying the dependent care benefits test to salary reduction amounts.	(x) Generally, same as the House bill but with an additional provision. The Senate amendment clarifies that the nondiscrimination tests that apply to dependent care assistance programs, other than the concentration test (sec. 129(d)(4)) and the benefits test (sec. 129(d)(8)), apply only to the availability of the program, not to the utilization of the program. This provision is a clarification of present law retroactive to the addition of the relevant nondiscrimination tests.
y. Cafeteria plans	(y) Under present law, employers are allowed to limit the elections of highly compensated employees under a cafeteria plan to the extent necessary to comply with the applicable nondiscrimination rules (e.g., sec. 89 or sec. 129(c)(7)). However, these limitations are to be applied in the manner prescribed for allocating discriminatory excess among highly compensated employees.	(y) No provision.	(y) Under the Senate amendment, the limits could be applied in any manner used consistently by the employer that precludes employer discretion during the year in which the limitation applies. For years beginning after December 31, 1989, such nondiscretionary method is required to be established in the plan document prior to the beginning of the year to which the method applies.
z. Reporting requirements for multiemployer plans	(z) Under present law, employers are required to file information returns with respect to group-term life insurance plans, accident or health plans, group legal services plans, cafeteria plans, educational assistance programs, and dependent care assistance programs (sec. 6039D).	(z) No provision.	(z) Under the Senate amendment, in the case of benefits provided under a multiemployer plan, the Secretary is to allocate the reporting responsibility with respect to the plan under section 6039D between the employer and the multiemployer plan based on the agreement between the parties. With respect to any multiemployer plan, this provision is effective retroactively to the date that section 6039D first applied to the plan.
		Effective date.--Except as otherwise provided, these provisions are effective as if included in the Tax Reform Act of 1986.	Effective date.--Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
C. Estate and Gift Tax: Estate Freezes (sec. 204(s) of the House bill and sec. 433 of the Senate amendment)			
1. Scope of provision	Section 2036(c) includes certain transferred property in the transferor's estate. The section applies if a person holds a substantial interest in an enterprise and in effect transfers property having a disproportionately large share of the potential appreciation in such person's interest in the enterprise while retaining a disproportionately large share of the income of, or rights in, the enterprise.	(a) Language stating that the retained income or rights must constitute a "disproportionately" large share of such income or rights is eliminated. In addition, the substantial interest requirement is met if the transferor holds a substantial interest in the enterprise either before or after the disproportionate transfer. Effective date.--The elimination of the language requiring that the retained income or rights constitute a disproportionately large share of such rights is effective for decedents dying after December 31, 1987. The change with respect to the substantial interest test is effective for disproportionate transfers on or after June 21, 1988.	(a) No provision.
		(b) Section 2036(c) does not apply by reason of the retention of certain interests. One such interest is qualified debt, which, among other things, is required to have a fixed maturity date within 15 years of issue, and not to be subordinated by its terms to the claims of general creditors. In addition, qualified debt must not grant voting rights or place any limitation (other than in a case where the debt is in default) upon the exercise of voting rights by others. Effective date.--Decedents dying after December 31, 1987.	(b) Same as the House bill, except that qualified debt need not have a fixed maturity date within 15 years of the date of issue. In addition, such debt need not by its terms be subordinated to claims of general creditors. Finally, the requirement that qualified debt not grant voting rights permits voting rights when there is a default as to payment of interest or principal. Effective date.--Same as House bill, except that a taxpayer with an interest in an enterprise qualifying under a statutory exception on January 1, 1990, is treated as if his interest was excepted from section 2036(c) from December 17, 1987.

Item	Present Law	House Bill	Senate Amendment
2. **Deemed gift**	Under section 2036(c), the value of the transferred property is includible in the transferor's gross estate if the transferor retains an interest in the enterprise for his life. It is includible regardless of whether the transferee retains his interest in the enterprise or the transferror makes subsequent transfers which restore proportionality to the holdings in the enterprise.	If either the original transferror transfers his retained interest, or the original transferee transfers the transferred property to a person other than the original transferror or a member of the original transferror's family, then the original transferror is treated as making a gift of property to the original transferee equal to the amount which would have been includible under section 2036(c) in his estate had the transferror died at that time. No amount is later included in the transferror's estate under section 2036(c) to the extent of prior deemed gifts. Terminations, lapses and other changes in any interest in property of the transferror or transferee are treated as transfers for this purpose. Effective date.--Disproportionate transfers occurring on or after June 21, 1988.	Same as the House bill, except that terminations, lapses and other changes in interests in the enterprise are not treated as transfers. In addition, a deemed gift occurs upon the transfer of property to the original transferror, but the amount of the deemed gift is reduced by the excess of the fair market value of such property over the consideration paid by the original transferror. Finally, the deemed gift is reduced by the value of the transferror's right to recover the gift tax from the transferee (described below). Effective date.--Same as the House bill.
3. **Regulatory authority**	Under section 2036(c), an individual and his spouse are treated as one person.	The Secretary of the Treasury is granted regulatory authority to prescribe circumstances in which an individual and spouse shall not be treated as one person. In addition, the Secretary of the Treasury is required to prescribe regulations as are appropriate to carry out the purposes of section 2036(c) and to prevent avoidance of its purposes through distributions or otherwise. Effective date.--Decedents dying after December 31, 1987.	Same as the House bill. Effective date.--Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
4. Right of contribution	An executor has no right under Federal law to recover a portion of the estate tax attributable to property includible under section 2036 from the owner of such property.	If any part of the gross estate consists of property includible by reason of section 2036, the estate may recover from the person receiving the property an amount which bears the same ratio to the total estate tax paid as the value of the includible property bears to the taxable estate. A similar right is created with respect to deemed gifts. The right of contribution does not apply if the decedent otherwise directs in a provision of his will specifically referring to the statute. Effective date.--Decedents dying after December 31, 1987.	Same as the House bill, except that there is no right of contribution against a charitable remainder trust. In addition, where the decedent lacks a will, there is no right of contribution if the decedent so directs in a revocable trust. Effective date.--Same as House bill, except that the right of contribution for gift tax applies with respect to disproportionate transfers made on or after June 21, 1988, and the right of contribution for amounts includible in the estate under section 2036(a) or section 2036(b) applies with respect to property includible by reason of transfers made after the date of enactment.
5. Adjustments	Appropriate adjustments are made for the value of the retained interest.	No provision.	The provision directing that appropriate adjustments be made for the value of the retained interest is replaced by one requiring that rules similar to section 2043 be applied in determining the adjustment for the consideration received. In addition, the Secretary of the Treasury is directed to perform a study as to the appropriate adjustment under section 2036(c). Effective date.--Decedents dying after December 31, 1987. The Secretary is required to report the results of the study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 1, 1990.

Item	Present Law	House Bill	Senate Amendment
D. Tax Treatment of Indian Fishing Rights (H.R. 2792, as passed by the House, and secs. 411-414 of the Senate amendment)			
a. Income derived from exercise of fishing rights	(a) Indians generally are subject to Federal tax in the same manner as other U.S. citizens, absent a specific Federal exemption. Consequently, the Tax Court has ruled in three cases that income derived by Indians from protected fishing activities is taxable, and the Internal Revenue Service has assessed deficiencies in other cases. Various treaties, Federal statutes, and executive orders reserve to Indian tribes (mostly in the West and Great Lakes regions) rights to fish for subsistence and commercial purposes both on and off reservations. Because the treaties, statutes, and executive orders were adopted before passage of the Federal income tax, they do not expressly provide whether income derived by Indians from protected fishing activities is exempt from taxation.	(a) No provision, but a separate bill, H.R. 2792, provides that income derived by individual members of an Indian tribe, or by a qualified Indian entity, from fishing rights-related activity is exempt from Federal and State tax, including income, social security, and unemployment compensation insurance taxes.	(a) Same as H.R. 2792.
b. Definition of fishing rights-related activity		(b) Defines fishing rights-related activity to mean, with respect to an Indian tribe, any activity directly related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of such tribe or to selling such fish but only if substantially all of such harvesting was performed by members of such tribe.	(b) Same as H.R. 2792.
c. Definition of qualified Indian entity		(c) Defines a qualified Indian entity as an entity in which (1) all of the equity interests are owned by tribal members; (2) substantially all of the management functions are performed by tribal members; and (3) if the entity engages in substantial processing or transporting of fish, at least 90 percent of the annual gross receipts are derived from the exercise of protected fishing rights of tribes whose members own at least a 10 percent equity interest in the entity.	(c) Same as H.R. 2792, except the Treasury Department is provided authority to issue regulations that exempt an entity from the requirement that, if the entity engages in substantial processing or transporting of fish, at least 90 percent of the annual gross receipts must be derived from the exercise of protected fishing rights of tribes whose members own at least a 10 percent equity interest in the entity.

Item	Present Law	House Bill	Senate Amendment
d. State tax treatment of income derived from exercise of fishing rights		(d) Provides that if income from fishing rights-related activity is exempt from Federal tax, then such income may not be subject to tax under State or local law.	(d) Same as H.R. 2792.
e. Relationship of Code provisions to treaties		(e) Provides that income from protected Indian fishing activities is exempt from Federal taxes only to the extent provided for by the bill. Provisions securing any fishing right for any Indian tribe in any treaty, law, or executive order shall not be construed to provide an exemption from Federal tax.	(e) Provides that nothing in the bill shall create any inference as to the existence or nonexistence, or the scope, of any exemption from tax for income derived from fishing rights secured by any treaty, law, or executive order.
		Effective date.--All periods beginning before, on, or after the date of enactment.	Effective date.--Same as H.R. 2792.

Item	Present Law	House Bill	Senate Amendment
III. EXTENSION AND MODIFICATIONS OF EXPIRING TAX PROVISIONS **A. Extension of Exclusion for Employer-Provided Educational Assistance (sec. 301 of the House bill and sec. 788 of the Senate amendment)**	Under prior law (taxable years beginning before January 1, 1988), an employee's gross income for income and employment tax purposes did not include amounts paid or incurred by the employer for educational assistance provided to the employee (without regard to whether the education was job-related) if such amounts were paid or incurred pursuant to an educational assistance program that met certain requirements (sec. 127). This exclusion, which expired for taxable years beginning after December 31, 1987, was limited to $5,250 of educational assistance provided with respect to an individual during a calendar year and was not available for education involving sports, games, or hobbies.	Extension.--The section 127 exclusion for educational assistance is restored retroactively to the date of expiration and is extended so that it expires for taxable years beginning after December 31, 1990. The prior-law limit of $5,250 is reduced to $1,500.	Extension.--The section 127 exclusion is restored retroactively to the date of expiration and is extended so that it expires for taxable years beginning after December 31, 1988.
		Graduate-level education.--The exclusion does not apply to any payment for, or the provision of any benefits with respect to, any graduate-level courses of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or similar advanced academic or professional degree. For this purpose, the phrase "graduate-level course" means a course taken by an individual who (1) has received a bachelor's degree (or the equivalent thereof), or (2) is receiving credit toward a more advanced degree. The section 127 limitation with respect to graduate-level courses does not affect the eligibility of tuition reduction benefits paid to graduate teaching or research assistants at colleges or universities to be excluded from income under section 117(d) subject to the compensation limitation of section 117(c).	Graduate-level education.--Same as the House bill, except the prior-law rules relating to benefits provided to graduate teaching and research assistants are retained under sections 117(d) and 127.
		Sports, games, and hobbies.--The bill clarifies that education with respect to a subject commonly considered a sport, game, or hobby, such as photography or gardening, is ineligible for the exclusion unless such education (1) has a reasonable relationship to an activity maintained by the employee for profit, (2) has a reasonable relationship to the business of the employer, or (3) is required as part of a degree program.	Sports, games, and hobbies.--Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
A. Extension of Exclusion for Employer-Provided Educational Assistance--Continued		Single trust.--No provision.	Single trust--It was unclear under prior law whether the prohibition on providing employees with a choice between nontaxable educational assistance benefits under section 127 and other remuneration includible in gross income prohibited the provision of taxable and nontaxable educational assistance benefits from a single trust. The provision clarifies the prior-law rules so that it is permissible to pay taxable and nontaxable educational assistance benefits from the same trust.
		Effective date.--Date of enactment. The amendments with respect to the $1,500 limit and graduate-level education apply to taxable years beginning after December 31, 1988. The amendment with respect to hobbies is considered a retroactive clarification of prior law.	Effective date.--Generally effective as of the date of the expiration of the exclusion. The provisions with respect to hobbies and single trust are considered to be retroactive clarifications of prior law.

Item	Present Law	House Bill	Senate Amendment
B. Extension of Exclusion for Employer-Provided Group Legal Services (sec. 789 of the Senate amendment)	Under prior law, amounts contributed by an employer to a qualified group legal services plan for an employee or amounts reimbursed to an employee for legal services under such a plan were excluded from the employee's gross income (sec. 120). In addition, under prior law, an organization, the exclusive function of which was to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan, was entitled to tax-exempt status (sec. 501(c)(20)). The exclusion for group legal services benefits and the tax exemption expired for taxable years ending after December 31, 1987.	No provision.	The Senate amendment restores the exclusion for group legal services and the exemption for group legal services organizations retroactively to the date of expiration and extends them so that they expire for taxable years ending after December 31, 1988. The exclusion is limited to an annual premium value of $70. The provision under a tax-exempt trust of group legal services benefits in excess of the $70 annual limit and taxable solely for that reason will not cause the trust to lose its tax-exempt status. Similarly, for taxable years ending before January 1, 1989, the provision under a cafeteria plan of a group legal services benefit that is taxable solely because of the annual $70 limit will not disqualify the cafeteria plan. Effective date.--The provision is effective as of the date of the expiration of the exclusion and exemption.

Item	Present Law	House Bill	Senate Amendment
C. Low-Income Rental Housing Tax Credit			
1. Extension of the low-income rental housing tax credit (sec. 302 of the House bill).	A credit is allowed in annual installments over 10 years for qualifying low-income rental housing (Code sec. 42). To qualify as a credit project, at least 40 percent of the housing units in the project must be occupied by tenants having incomes of 60 percent or less of the area median income or 20 percent of the housing units must be occupied by tenants having incomes of 50 percent or less of the area median income. If property on which a low-income housing credit is claimed ceases to qualify as low-income rental housing or is disposed of before the end of a 15-year credit compliance period, a portion of the credits may be recaptured. Credit authority is scheduled to expire after December 31, 1989.	The low-income rental housing credit is extended for one year, through December 31, 1990. Effective date.--Date of enactment.	No provision.
2. Modifications to the low-income rental housing tax credit (sec. 368 and 369 of the House bill and sec. 786 of the Senate amendment)	A tax credit payable in annual installments over 10 years is available for qualifying low-income rental housing. Credit authority is granted by State agencies subject to an annual credit authority limitation for each State.		
	(a) To be a qualified low-income project, an allocation of credit authority must be received from the State in the year in which the building is placed in service. States may not carryover unused credit authority from one year to the next. A limited exception to these rules permits carry over of credit authority from the last year of authorized credit authority if a project is either new construction or a substantial rehabilitation, more than ten percent of anticipated costs were incurred before 1989, and the building is placed in service by the end 1990.	(a) No provision.	(a) The amendment permits a building to be placed in service in the year in which the credit allocation is received or in either of the two succeeding years provided that at least ten percent of the expected project costs were paid by the end of the year in which the credit allocation was received. The amendment applies only to credit allocations for new construction and substantial rehabilitations.
	(b) To qualify as a credit project, the project must meet minimum low-income tenant occupancy requirements. In addition, the gross rent charged to low-income tenants may not exceed thirty percent of the applicable area median income qualifying as low income. Qualifying tenant incomes are adjusted for family size.	(b) The bill would provide that changes in family size resulting from death, divorce, separation, and abandonment be disregarded in determining the maximum gross rent that may be charged an existing low-income tenant.	(b) No provision.

Item	Present Law	House Bill	Senate Amendment
2. Modifications to the low-income rental housing tax credit-continued.	(c) If property for which a low-income housing credit is claimed ceases to qualify as low-income rental housing or is disposed of, a portion of the credits may be recaptured. Partnerships having more than thirty-five partners, with no more than fifty percent of the partnership interest being held by corporations, may elect to have the recapture determined at the partnership level rather than at the partner level.	(c) The bill removes the restriction on corporate ownership for certain large partnerships. The bill also reverses the election of prior law, making large partnerships subject to recapture at the partnership level rather than the partner level, unless they elect otherwise.	(c) No provision.
		(d) Committee report language is provided to clarify that a housing project is not disqualified from receiving a credit allocation solely because the developer undertook the project as a condition of receiving zoning variances for other, non-low-income-housing property.	(d) No provision.
		Effective date.--Generally, as if included in the Tax Reform Act of 1986; however, those partnerships which under existing law did not elect recapture at the partnership level will have until six months after the date of enactment to elect to retain that treatment.	Effective date.--Effective for all credit allocations made after December 31, 1987.

Item	Present Law	House Bill	Senate Amendment
D. Qualified Mortgage Bonds and Mortgage Credit Certificates. **1. Extension of authority to issue qualified mortgage bonds (QMBs) and mortgage credit certificates (MCCs) (sec. 303 of the House bill and sec. 787 of the Senate amendment)**	Qualified mortgage bonds are tax-exempt bonds, the proceeds of which are used to make mortgage loans to qualifying first-time homebuyers. These bonds are issued subject to State private activity volume limitations. States and local governments may elect to trade bond authority and issue mortgage credit certificates. Authority to issue qualified mortgage bonds and mortgage credit certificates expires after December 31, 1988.	The bill extends for two years, through December 31, 1990, authority to issue qualified mortgage bonds and mortgage credit certificates. Effective date Date of enactment.	The amendment extends for six months, through June 30, 1989, authority to issue qualified mortgage bonds and mortgage credit certificates. Effective date Date of enactment.
2. Modification to QMB and MCC requirements (sec. 303 of the House bill and secs. 737 and 739 of the Senate amendment)			
(a) Qualifying income limits: family size adjustment	(a) Income limits are not adjusted for family size.	(a) The bill adjusts the applicable income limit for family size. In one or two person families, the income of the income of the mortgagor cannot exceed 100 percent (120 percent for targeted areas) of area median income. Larger families retain the 115 percent (140 percent targeted) test.	(a) No provision.
(b) Qualifying income limits: high and low housing cost areas	(b) To be a qualifying buyer, the income of the mortgagor cannot exceed 115 percent of the higher of area or State median income. The income limit is not adjusted for family size. (A limit of 140 percent exists for certain financing in designated targeted areas.)	(b) Mortgagors incomes are tested by reference to area median income and adjustments are made to the income limitations in those areas where housing costs are high or low compared to national standards.	(b) Adjustments are provided for high housing cost areas. The choice of higher of area or State median income is retained.

Item	Present Law	House Bill	Senate Amendment
(c) Modification of qualifying purchase price limitations	(c) The purchase price of the homes assisted with QMBs and MCCs may not exceed 90 percent (110 percent in targeted areas) of the average area purchase price of homes in the area. Ground leases are capitalized under Treasury regulations, but only if the rental amount is known for the entire term of the lease.	(c) No provision.	(c) The amendment directs the Treasury to provide, in its regulations, a method for determining the capitalized value for ground leases in cases where the lease term has at least 35 years remaining with the rent known for at least the first 10 years, but not the entire term.
(d) Modification of arbitrage rebate rules	(d) Issuers of qualified mortgage bonds and qualified veterans' mortgage bonds are permitted to retain arbitrage profits earned on nonpurpose investments (rather than rebate these profits as is required of other tax-exempt bond issuers) provided those profits are used to benefit assisted homebuyers.	(d) The bill requires issuers of qualified mortgage bonds and qualified veterans' mortgage bonds to rebate to the Federal government arbitrage profits earned on nonpurpose investments.	(d) No provision.
(e) Requirement to lend proceeds within three years and to redeem outstanding bonds	(e) There is no statutory period in which bond proceeds must be spent nor a redemption requirement for unspent proceeds.	(e) The bill requires all proceeds of qualified mortgage bonds to be used to finance loans within three years of the date of issue. Unexpended proceeds must be used to redeem outstanding bonds. In addition, prepayments of loans must be used to redeem outstanding bonds.	(e) No provision.
(f) Recapture of special subsidy for certain higher income beneficiaries	(f) The special subsidy provided by qualified mortgage bonds and mortgage credit certificates is not recaptured.	(f) The bill requires the recapture of all or part of the subsidy of the qualified mortgage bond or mortgage credit certificate on dispositions of bond- or certificate-assissted housing which occur within ten years of the original purchase by certain high income mortgagors (where income has increased substantially since they acquired the home). The maximum amount recaptured is 1.25 percent of the original balance of the loan for each year the loan is outstanding, or 50 percent of the gain, whichever is less. The 1.25 percent per year is phased-out during the second five years of the recapture period.	(f) No provision.
		Effective date.--(2)(a)-(e) Bonds issued after December 31, 1988. For (2)(f), loans originating after December 31, 1988, except loans originated after that date are exempt if made with bond proceeds subject to binding contracts entered into prior to June 23, 1988, or from bonds issued before August 1, 1988, pursuant to State bond volume allocations applied for before July 1, 1988.	Effective Date For (2)(b), bonds issued after December 31, 1988. For (2)(c), bonds issued after the date of enactment.

Item	Present Law	House Bill	Senate Amendment
E. Extension of Special Student Loan Bond Arbitrage Rules (sec. 790 of the Senate amendment)	Generally, any arbitrage profits earned on nonpurpose investments acquired with the gross proceeds of any tax-exempt bond must be rebated to the United States. In addition, temporary periods when bond proceeds may be invested in higher yielding investments are statutorily limited for pooled financing bonds. The Tax Reform Act of 1986 provided an exception from these requirements for certain qualified student loan bonds issued before January 1, 1989.	No provision.	Provides a 6-month extension of the exemption, through July 1, 1989. Effective date.--Date of enactment.
F. Extension of Business Energy Tax Credits for Solar, Geothermal and Ocean Thermal Property (sec. 791 of the Senate amendment)	Three business energy tax credits are scheduled to expire after December 31, 1988: (1) Business solar--10% credit (2) Geothermal--10% credit (3) Ocean thermal--15% credit. These credits were extended through 1988 in the Tax Reform Act of 1986, with the tax credit rates shown above effective for calendar year 1988.	No provision.	These credits are extended through June 30, 1989, at the present (1988) tax credit rates. Effective date.--The extension is effective on and after January 1, 1989.

Item	Present Law	House Bill	Senate Amendment
G. Research and Development Provisions **1. Extension of research tax credit (sec. 305 of the House bill and sec. 793 of the Senate amendment)**	A 20-percent tax credit is allowed for the amount of qualified research expenditures paid or incurred by a taxpayer during a taxable year that exceeds the average amount of the taxpayer's yearly qualified research expenditures in the base period (generally, the preceding three taxable years). The credit also applies to certain payments to universities for basic research. Under present law, the credit is scheduled to expire after December 31, 1988.	Extension of credit.--The present-law research credit (including the university basic research credit) is extended for two additional years, i.e., for qualified research expenditures incurred through December 31, 1990. GAO study.--The General Accounting Office is directed to conduct a study of the structure, operation, and effectiveness of the credit, and to submit a report on the study (including any recommendations for targeting the credit more effectively and otherwise improving the credit) to the Committee on Ways and Means by December 31, 1989. Effective date.--Date of enactment.	Extension of credit.--The present-law research credit (including the university basic research credit) is extended for three additional months, i.e., through March 31, 1989. A pro rata rule applies for purposes of computing the extended credit, pursuant to which the taxpayer's qualified research expenditures (or basic research payments) for January 1, 1989 through March 31, 1989 are deemed equal to one-quarter of the taxpayer's actual qualified research expenditures (or basic research payments) for January 1, 1989 through December 31, 1989. GAO study.--No provision. Effective date.--Date of enactment.
2. Denial of deduction for amounts allowed as a research credit (sec. 306 of the House bill)	Under present law, the amount of the taxpayer's section 174 or other deduction for research expenditures is not reduced by the amount of any section 41 credit also allowed to the taxpayer for the same research expenditures.	No deduction (under sec. 174, sec. 170, or otherwise) is allowed for that portion of the taxpayer's qualified research expenses or basic research payments otherwise allowable as a deduction for the year that equals the amount of the taxpayer's section 41 credit determined for that year. A similar rule applies where the taxpayer capitalizes, rather than expenses, qualified research expenses pursuant to section 174. Under the provision, the taxpayer may elect not to claim the full amount of the credit that otherwise would be available, thereby avoiding reduction of the section 174 deduction where the limitation imposed by the alternative minimum tax prevents full use of the credit. Effective date.--Taxable years beginning after December 31, 1988.	No provision.

Item	Present Law	House Bill	Senate Amendment
3. Allocation and apportionment of R&D (sec. 307 of the House bill and sec. 796 of the Senate amendment)	For certain taxable years beginning before August 14, 1981 and for years beginning after August 1, 1987, R&D expenses were and are allocated between U.S. and foreign source income under detailed 1977 regulations designed to allocate and apportion R&D expenses on the basis of their respective contributions to U.S. source and foreign source net income. For the intervening years, R&D expenses were allocated and apportioned under statutory rules designed with particular emphasis on encouraging R&D activity in the United States.	U.S. persons must allocate 64 percent of U.S. R&D expenses (other than any such amounts allocated to one geographical source because of legal requirements) to U.S. source income and 64 percent of expenses for R&D conducted outside the United States to foreign source income. The remainder of U.S. and foreign R&D expenses are to be allocated on the basis of gross sales or (subject to a limit) gross income. The amount of R&D expense allocated to foreign source income on the basis of gross income in all cases must be at least 30 percent of the amount allocated to foreign source income on the basis of gross sales. The bill also clarifies the treatment of expenses for R&D conducted in space, the high seas, and Antarctica. Effective date.--With respect to U.S. R&D expenses, effective for taxable years beginning after August 1, 1987, and before January 1, 1991. With respect to foreign R&D expenses, effective for taxable years beginning after June 21, 1988, and before January 1, 1991.	Same as the House bill. Effective date.--Effective for the first four months of the first taxable year beginning after August 1, 1987. In determining which R&D expenses were incurred in which four-month period of that taxable year, R&D expenses are to be treated as if incurred ratably throughout the taxable year.

Item	Present Law	House Bill	Senate Amendment
H. Extension of the Targeted Jobs Tax Credit (sec. 308 of the House bill and sec. 792 of the Senate amendment).			
1. Tax credit provisions	A tax credit is available on an elective basis to employers of individuals from one or more of nine targeted groups. The nine groups consist of individuals who are either recipients of payments under means-tested transfer program, economically disadvantaged (as measured by family income), or disabled. The credit generally is equal to 40 percent of the first $6,000 of qualified first year wages. A credit equal to 85 percent of up to $3,000 of wages to any disadvantaged summer youth employees is also allowed. The employer's deduction for wages must be reduced by the amount of the credit. The credit is scheduled to expire December 31, 1988.	The credit is for two years, through December 31, 1990. The category of economically disadvantages youth is restricted to employees aged 18 through 21.	The credit is extended for 6 months. The credit for disadvantaged summer youth employees is reduced from 85 percent to 40 percent.
		Effective date.--The provision applies with respect to targeted-group individuals who begin work for the employer after December 31, 1988 and before January 1, 1991. Under the provision, the credit does not apply with respect to individuals who begin work for the employer after December 31, 1990.	Effective date.--The provision applies with respect to targeted-group individuals who begin work for the employer after December 31, 1988 and before July 1, 1989. Under the provision, the credit does not apply with respect to individuals who begin work for the employer after June 30, 1990.
2. Authorization of appropriations	Present law also authorizes appropriations for administrative and publicity expenses relating to the credit through September 30, 1988. These monies are to be used by the Internal Revenue Service (IRS) and Department of Labor to inform employers of the credit program.	The authorization for appropriations is extended for two years, October 1, 1988-September 30, 1990.	The authorization for appropriations is extended for one year, October 1, 1988-September 30, 1989.

Item	Present Law	House Bill	Senate Amendment
I. Treatment of mutual fund shareholder expenses for purposes of the 2-percent floor on miscellaneous itemized deductions (sec. 309 of the House bill)	Miscellaneous employee and investment expenses generally are deductible by itemizers only to the extent that they exceed 2 percent of the taxpayer's adjusted gross income. As enacted in the Tax Reform Act of 1986, this 2-percent floor applies with respect to indirect deductions through regulated investment companies (mutual funds); i.e., certain investment expenses of such funds do not directly reduce the amount of the fund's income that is taxable to the shareholder, but may be deducted by the shareholder as miscellaneous deductions subject to the 2-percent floor. The Omnibus Budget Reconciliation Act of 1987 delayed treatment of expenses of publicly offered mutual funds as miscellaneous itemized deductions until taxable years beginning after December 31, 1987. A publicly offered mutual fund is a mutual fund the shares of which are (1) continuously offered pursuant to a public offering (under sec. 4 of the Securities Act of 1933), (2) regularly traded on an established securities market, or (3) held by no fewer than 500 persons at all times during the taxable year. The Treasury Department may prescribe regulations decreasing the minimum 500-shareholder requirement for mutual funds that experience a loss of shareholders through net redemptions of their shares.	Expenses of publicly offered mutual funds are not treated as miscellaneous itemized deductions of shareholders subject to the 2-percent floor. Effective date.--Taxable years beginning after December 31, 1987.	No provision.

Item	Present Law	House Bill	Senate Amendment
J. Financially Troubled Financial Institutions: Reorganizations, NOLs, and FSLIC/FDIC Assistance Payments (sec. 794 of the Senate amendment)	The following three rules applying to financially troubled thrift institutions are scheduled to expire December 31, 1988: (1) Gross income of a domestic savings and loan association does not include assistance payments from the Federal Savings and Loan Insurance Corporation ("FSLIC") and no basis reduction is required on account of such payments; (2) Certain FSLIC-assisted acquisitions of financially troubled thrift institutions may qualify as tax-free reorganizations, without regard to the continuity of interest requirement; and (3) Special rules apply to the carryforward of net operating losses, built-in losses, and excess credits of a thrift institution that has certain ownership changes	No provision	The three present law rules for financially troubled thrift institutions are extended for six months, through June 30, 1989, with a modification. Under the modification, net operating losses existing at the time of the regulatory assistance, interest expense, and loan portfolio built-in losses are reduced by an amount equal to 50 percent of the tax-free FSLIC assistance payments. In the case of taxable asset acquisitions, there is no reduction in deductions on account of any payments made to make up the difference between the fair market value of the assets transferred and the liabilities assumed. The above rules are also applied during the six-month period to financially troubled banks and to payments made to such banks by the Federal Deposit Insurance Corporation ("FDIC"). **Effective dates.**--(1) The extension of the tax-free treatment of assistance payments with the 50-percent cutback, and the application of these rules to banks, apply to assistance payments made pursuant to acquisitions occurring after December 31, 1988 and before July 1, 1989, and to other assistance payments made during such period unless pursuant to an acquisition occurring on or before December 31, 1988. (2) The extension of tax-free reorganization rules, and the application of these rules to banks, apply to acquisitions after December 31, 1988 and before July 1, 1989. (3) The extension of the carryforward rules, and the application of these rules to banks, apply to ownership changes occurring after December 31, 1988 and before July 1, 1989.

Item	Present Law	House Bill	Senate Amendment
IV. OTHER SUBSTANTIVE REVENUE PROVISIONS **A. Individual Provisions**			
1. Treatment of certain payments to colleges for right to purchase athletic tickets (sec. 331 of the House bill and sec. 728 of the Senate amendment)	Pursuant to IRS guidelines, if a payment to or for a college (e.g., to the college's athletic scholarship program) entitles the payor to purchase seating at the college's athletic stadium, the payment is not deductible as a charitable contribution if such tickets would not have been readily available to the taxpayer without making the payment.	If a taxpayer makes a payment to or for a college that would be deductible as a charitable contribution but for the fact that the taxpayer thereby receives (directly or indirectly) the right to purchase seating in the college's athletic stadium, 80 percent of such payment is treated as a charitable contribution, whether or not tickets would have been readily available to the taxpayer without making the payment. As under present law, no amount paid for the actual purchase of tickets is deductible as a charitable contribution. The provision does not apply if the taxpayer receives tickets or seating (rather than the right to purchase tickets) in return for the payment. Effective date.--Amounts paid in taxable years beginning after December 31, 1983 (i.e., beginning with the year in which the original IRS ruling on this issue was published).	Same as the House bill, except for effective date. Effective date.--Same as the House bill, except that the statute of limitations is waived for closed years (beginning after 1983) if the taxpayer files a refund claim within one year after the date of enactment.
2. Nonrecognition of gain on sale of old residence where one spouse dies before occupying new residence (sec. 333 of House bill)	In general, a married couple filing jointly may defer recognition of gain on the sale of their principal residence if the sales price of the old residence is reinvested in a new principal residence within a specified period of time. This provision for nonrecognition of gain does not apply if one spouse dies after the date of sale of the old residence and before the date of purchase of the new residence.	The present-law rule on nonrecognition of gain applies where the surviving spouse purchases a new principal residence within the specified period of time. Effective date.--Sales and exchanges of old residences after December 31, 1984.	No provision.

Item	Present Law	House Bill	Senate Amendment
3. Full deductibility of meals provided to employees on certain vessels or drilling rigs (sec. 334 of the House bill)	An otherwise allowable business deduction for any expense for food or beverages (including employer-provided meals to employees) is reduced by 20 percent, subject to certain exceptions.	(a) Vessels.--The percentage reduction rule does not apply to an otherwise allowable deduction for expenses of food or beverages that (1) are required by Federal law (46 U.S.C. sec. 10303) to be provided to crew members of a commercial vessel, or (2) are provided to crew members of a commercial vessel operating on the Great Lakes, the St. Lawrence Seaway, or the U.S. inland waterways that is of a kind that would be required by Federal law to provide food or beverages to crew members if operated at sea. (Thus, for example, the provision would not apply with respect to fishing boats or foreign vessels operating on the inland waterways.) However, the present-law percentage reduction rule continues to apply with respect to expenses of food or beverages provided to crew members of vessels the predominant use of which is for luxury water transportation, such as cruise ships, passenger liners, or yachts. Effective date.--Taxable years beginning after December 31, 1988.	(a) No provision.
		(b) Drilling rigs.--The percentage reduction rule does not apply to an otherwise allowable deduction for expenses of food or beverages that are provided by an employer on an oil or gas platform or drilling rig if such platform or rig is located either offshore or in the United States north of 54 degrees north latitude. Effective date.--Taxable years beginning after December 31, 1987.	(b) No provision.

Item	Present Law	House Bill	Senate Amendment
4. Treatment of certain innocent spouses (sec. 335 of the House bill)	Pursuant to the Tax Reform Act of 1984, a spouse filing a joint return is relieved of liability if (1) there is a substantial understatement of tax liability attributable to a grossly erroneous item of the other spouse; (2) the spouse establishes that in signing the return he or she did not know that there was a substantial understatement; and (3) taking into account all the facts and circumstances, it is inequitable to hold the spouse liable for the deficiency in tax attributable to the understatement.	If (1) on a joint return filed before January 1, 1985, there was an understatement attributable to disallowed deductions of the other spouse the amount of which exceeded the taxable income shown on the return, (2) the spouse establishes that in signing the return that he or she did not know (or have reason to know) that there was such an understatement, (3) the marriage terminated, and (4) the net worth of the spouse immediately following the termination of the marriage was less than $10,000, then the spouse is relieved of liability for tax (including interest, penalties, and other amounts) for the year to the extent the liability is attributable to the understatement. A refund (without interest) is allowed notwithstanding any law or rule of law if a refund claim is filed within one year of the date of enactment. Effective date.--Returns filed before January 1, 1985 (the effective date of the 1984 Act provision relating to innocent spouses).	No provision.

Item	Present Law	House Bill	Senate Amendment
5. Interim treatment of certain amounts awarded to Christa McAuliffe Fellows (sec. 336 of the House bill)	Under the Christa McAuliffe Fellowship Program, the Federal Government awards fellowships annually to outstanding teachers. The award may be used only for an education improvement project approved by the Department of Education. Project purposes may include (1) development of special innovative programs, (2) consultation with or assistance to other school districts, (3) model teacher programs and staff development, or (4) sabbaticals for study, research, or academic improvement. Under the program as currently structured, checks made out to the teacher are issued on the basis of monthly budget submissions showing amounts needed for carrying out the approved project. The Federal statute establishing the McAuliffe Fellowship Program did not include rules for the Federal income tax treatment of program awards. In general, nonscholarship awards to individuals are includible in the recipient's gross income.	The amount of a Christa McAuliffe Fellowship that is expended, in accordance with the terms of the grant, on an approved school project for the benefit and use of a school or school system is to be treated as a grant to the school, and hence is not to be includible in the teacher's gross income. Any amount retained or used directly or indirectly for the personal benefit of the teacher, such as for a sabbatical trip or as compensation for services in connection with the project, is includible in the teacher's gross income. Effective date.--Fellowship amounts received prior to July 1, 1990.	No provision.

Item	Present Law	House Bill	Senate Amendment
6. Election by parent to claim unearned income of certain children (sec. 733 of the Senate amendment)	The unearned income of a child under the age of 14 in excess of a specified amount is taxed to the child at the top marginal rate of his or her parents. A dependent child with any unearned income must file a tax return if his or her total income exceeds $500.	No provision.	A parent is permitted to elect to include unearned income of a child on the parent's income tax return if the income of the child is less than $5,000 and consists entirely of interest, dividends, or Alaska Permanent Fund dividends. The election is not available if estimated tax payments for the taxable year are made in the child's name and social security number. Effective date.--Taxable years beginning after December 31, 1988.
7. Above-the-line deduction for jury pay that employee must surrender to employer (sec. 755 of the Senate amendment)	If an employer requires its employee to surrender to the employer amounts received as jury pay, in return for continuing the employee's normal salary while on jury service, the amount of surrendered jury pay is deductible only if the employee itemizes deductions and only to the extent exceeding two percent of the employee's adjusted gross income.	No provision.	An above-the-line deduction is allowed for jury pay surrendered by an employee to the employer, in return for continuing the employee's normal salary while on jury service. (Thus, where the provision applies, the deduction is available to both itemizers and nonitemizers, and is not subject to the two-percent floor.) Effective date.--Taxable years beginning after December 31, 1986 (the effective date of the 1986 Act provision imposing the two-percent floor).

Item	Present Law	House Bill	Senate Amendment
8. Medical expense deduction for costs of service animals to assist handicapped individuals (Senate amendment)	IRS rulings specifically provide that amounts paid to acquire, train, and maintain a dog for the purpose of assisting a blind or deaf taxpayer are eligible for the itemized deduction for medical expenses (Rev. Rul. 55-261, 1955-1 C.B. 307; Rev. Rul. 68-295, 1968-1 C.B. 92).	No provision.	The legislative history of the Senate amendment clarifies that costs incurred with respect to a dog or other service animal in order to assist individuals with any type of physical disabilities are eligible for the medical expense deduction Effective date.--Date of enactment.
9. Medical expense deduction for certain radon mitigation costs (sec. 800G of the Senate amendment)	Taxpayers who itemize deductions are allowed to deduct medical expenses of the taxpayer, spouse, or a dependent, to the extent that such expenses exceed 7.5 percent of adjusted gross income. The cost of a permanent improvement to a residence may be deductible as a medical expense if the expenditure is directly related to medical care, but only for any portion of the cost that exceeds the increased value of the property attributable to the improvement.	No provision.	Specified types of home improvement costs incurred to mitigate radon gas exposure are treated as medical care expenses eligible for the section 213 deduction. This provision applies only if the taxpayer shows, through measurements taken by a State or by a person approved by the EPA, that radon levels in the taxpayer's home exceeded the level of safety recommended by the EPA. The specified types of home improvements for mitigating radon gas exposure are: (1) sub-slab ventilation; (2) drain-tile ventilation; (3) block-wall ventilation; and (4) sump ventilation. In addition, Treasury regulations may provide that installation of air heat exchangers and air filtration systems as well as other techniques may be eligible for the deduction, if the taxpayer shows that one of the four specified techniques listed above failed to reduce the concentration of radon gas in the air of the residence to the recommended safe level. Effective date.-Taxable years beginning after December 31, 1987.

Item	Present Law	House Bill	Senate Amendment
10. Education savings bonds and modification of student dependency exemption			
a. Education savings bonds (sec. ___ of the Senate amendment)	(a) An exclusion from gross income or deferral of taxation is not allowable for interest or other income specifically because the taxpayer uses the income for educational expenses. Taxation of interest accruals on U.S. Series EE savings bonds may be deferred by cash basis taxpayers as long as the bonds are not redeemed.	(a) No provision.	(a) Interest income earned on a qualified U.S. savings bond is excluded from gross income, if the bond is transferred to an eligible educational institution as payment for the tuition and required fees of a taxpayer, or a taxpayer's spouse or dependents. The amount excludible is the lesser of (1) the amount of otherwise includible income transferred, or (2) the amount of qualified higher education expenses. The exclusion is phased out for a taxpayer with AGI between $60,000 and $80,000, with 67% excluded between $60,000 and $70,000, and 34% excluded between $70,000 and $80,000. The exclusion is completely phased out for AGI above $80,000. For a taxpayer who is a dependent of another taxpayer, the phaseout is applied to the AGI of both taxpayers. The phaseout amounts are indexed in calendar years after 1988. Transfer of savings bonds is made allowable for these purposes. Effective date.--Transfer of qualified U.S. savings bonds issued after the date of enactment.
b. Dependency exemption for certain students (sec. ___ of the Senate amendment)	(b) A taxpayer generally may not claim a dependency deduction for a dependent whose gross income for the year exceeds the dollar exemption amount ($1950 in 1988). However, this gross income text does not apply if the dependent is (1) a child of the taxpayer and (2) a full-time student at a qualified educational organization, regardless of the student's age.	(b) No provision.	(b) A taxpayer may not claim a dependency exemption for a dependent child who is a student who has attained 24 years of age at the close of the calendar year, unless the child's gross income for the year is less than the dollar exemption amount. If the parent cannot claim an exemption for the child pursuant to this rule, the child could claim an exemption on his or her own return. Effective date.--Taxable years beginning after December 31, 1989. (Floor amendment, a. and b., above, by Senator Kennedy, adopted by 94-0.)
(c) Prepaid tuition plans (sec. ___ of the Senate amendment)	(c) No provision.	(c) No provision.	(c) The amendment extends similar benefits regarding the exclusion of income used to pay tuition and required fees to certain prepaid tuition plans which have been established by several States. (Floor amendment by Senator Riegle, adopted by voice vote.)

Item	Present Law	House Bill	Senate Amendment
11. Exclusion of gain on sale of principal residence by certain incapacitated taxpayers age 55	In general, a taxpayer may exclude from gross income $125,000 of gain from the sale of a principal residence, if the taxpayer (1) has attained age 55 before the sale, and (2) has used the residence as a principal residence for 3 or more years of the 5 years preceding sale of the residence. Several special rules have been enacted, but none applies to the situation of a taxpayer who has been incapable of self-care in such residence.	No provision.	If a taxpayer owns and uses any property as the taxpayer's principal residence for any 1-year period within a 5-year period ending immediately before a period of time during which the taxpayer becomes physically or mentally incapable of self-care in such residence, then the taxpayer shall be treated as using such property as the taxpayer's principal residence during such period of time and while the taxpayer is residing in any facility (including a nursing home) licensed by a State or political subdivision to care for any individual in the taxpayer's condition. Effective date.--Any sale or exchange after September 30, 1988, in taxable years ending after such date.

Item	Present Law	House Bill	Senate Amendment
B. Accounting/Agriculture Provisions			
1. Repeal uniform capitalization rules for certain producers of animals; depreciation of certain farm property			
a. Uniform capitalization rules for certain producers of animals (sec. 338(b) of the House bill and sec. 795(b) of the Senate amendment)	a. The uniform capitalization rules apply to the production of an animal in a farming business if (1) the animal has a preproductive period of more than two years, or (2) the taxpayer engaged in the farming business is a corporation, partnership or tax shelter that is required to use an accrual method of accounting.	a. The uniform capitalization rules do not apply to otherwise deductible expenses that are incurred by a taxpayer in connection with the production of animals in any farming business other than a farming business of a corporation, partnership or tax shelter that is required to use an accrual method of accounting. Effective date.--Costs incurred after December 31, 1988.	a. Same as the House bill.
b. Treatment of single purpose agricultural or horticultural structures (sec. 339 of the House bill and sec. 795(c) of the Senate amendment)	b. For purposes of the modified accelerated cost recovery system, single-purpose agricultural or horticultural structures are assigned a seven-year recovery period.	b. Single-purpose agricultural structures that are used for housing, raising, and feeding poultry are assigned a recovery period of 8 years, and all other single-purpose agricultural or horticultural structures are assigned a recovery period of 12 years. Effective date.--Property placed in service after December 31, 1988, except for property placed in service before January 1, 1990 which is (1) constructed, reconstructed, or acquired pursuant to a written contract binding on July 14, 1988, or (2) constructed or reconstructed by the taxpayer and such work began by July 14, 1988.	b. All single-purpose agricultural or horticultural structures are assigned a ten-and-a-half year recovery period. Effective date.--Same as the House bill.
c. Treatment of property used in a farming business (sec. 340 of the House bill and sec. 795(d) of the Senate amendment)	c. The applicable depreciation method in a farming business is generally the same as for other business (i.e., 200 percent declining balance method for property with recovery periods of less than 15 years). Farmers who are subject to the uniform capitalization rules, but elect to deduct preproductive period expenditures are required to depreciate all farming assets using the alternative depreciation system (i.e., straight-line method with longer recovery periods).	c. Property used in the trade or business of farming is depreciated using the 150 percent declining balance method, except that taxpayers who elect to deduct preproductive period expenditures are still required to use the alternative depreciation system. Effective date.--Property placed in service after December 31, 1988, except for property placed in service before July 1, 1989 which is (1) constructed, reconstructed, or acquired pursuant to a written contract binding on July 14, 1988, or (2) constructed or reconstructed by the taxpayer and such work began by July 14, 1988.	c. Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
2. **Treatment of certain trees (sec. 800N of the Senate amendment)**	Under the ADR system, trees and vines are classified as land improvements with a midpoint life of 20 years. Thus, under the modified ACRS system, depreciation deductions for trees and vines generally are calculated using a fifteen year recovery period and the 150% declining balance method with a switch to straight line at a time to maximize the depreciation deduction.	No provision.	Provides that depreciation deductions for trees or vines bearing fruit or nuts generally are calculated using the straight line method over a ten year recovery period. **Effective date.**--Property placed in service after December 31, 1988.
3. **Treatment of livestock sold on account of drought (sec. 708 of the Senate amendment)**	A cash method taxpayer whose principal trade or business is farming and who is forced to sell certain livestock due to drought conditions may elect to include any income from the sale of the livestock in the taxable year following the taxable year of the sale. The election generally does not apply to cattle, horses, and other livestock held for draft, breeding, dairy or sporting purposes.	No provision.	The one-year elective deferral of income is extended to cattle, horses, and other livestock held for draft, breeding, dairy or sporting purposes. **Effective date.**--Sales and exchanges occurring after December 31, 1987.
4. **Treatment of certain pledged installment obligations (sec. 341 of the House bill and sec. 753 of the Senate amendment)**	If any indebtedness is secured directly by an installment obligation that arises out of the sale of non-farm real property that is used in a taxpayer's trade or business or that is held for the production of rental income where the selling price of the real property exceeds $150,000 (a "nondealer real property installment obligation"), the net proceeds of the secured indebtedness are treated as a payment on the installment obligation. This rule generally applies to nondealer real property installment obligations that are pledged as security for a loan after December 17, 1987.	The rule that treats the net proceeds of an indebtedness as a payment on a nondealer real property installment obligation does not apply to a pledge of such an obligation after December 17, 1987, to secure an indebtedness if the indebtedness is incurred to refinance indebtedness that (1) was outstanding on December 17, 1987, and (2) was secured by the nondealer real property installment obligation on that date and at all times thereafter until the refinancing occurred. This exception does not apply to the extent that the principal amount of the indebtedness resulting from the refinancing exceeds the principal amount of the refinanced indebtedness immediately before the refinancing. For purposes of the exception, a refinancing attributable to the creditor's calling of indebtedness is treated as a continuation of the indebtedness if the refinancing is provided by a person other than the creditor or a person related to the creditor. Effective date.--Effective as if included in the Revenue Act of 1987.	**Same as the House bill, except that the exception to the pledge rule applies only if (1) the taxpayer is required by the creditor to refinance the indebtedness, and (2) the refinancing is provided by a person other than the creditor or a person related to the creditor. In addition, the refinancing cannot extend the deferral period beyond the term of the original indebtedness.** **Effective date.--Same as the House bill.**
5. Treatment of certain payments received as a result of crop losses due to drought conditions (Senate amendment)	A cash method taxpayer who receives insurance proceeds as a result of the destruction of, or damage to, crops may elect to include the proceeds in income for the taxable year following the year in which the destruction or damage occurs if, under the taxpayer's practice, income from such crops would have been included for a year following the year in which the destruction or damage occurred. For this purpose, certain payments received under the Agricultural Act of 1949 are treated as insurance proceeds received as a result of the destruction of, or damage to, crops.	No provision.	Payments received under Title II of the Disaster Assistance Act of 1988 (P.L. 100-387) are treated in the same manner as payments received under the Agricultural Act of 1949. Effective date.--Payments received before, on, or after the date of enactment.

Item	Present Law	House Bill	Senate Amendment
C. Pension and Employee Benefit Provisions **1. Employee benefit nondiscrimination rules for church plans and cafeteria plans (sec. 710 of the Senate amendment)**			
a. Church plans	a. Church plans.--Under present law, all statutory employee benefit plans maintained by all employers are subject to the nondiscrimination requirements of section 89.	a. Church plans.--No provision.	a. Church plans.--The Senate amendment provides that the nondiscrimination requirements of section 89 do not apply to statutory employee benefit plans maintained by a church for church employees. For purposes of this provision, the definition of a church is the same definition that applies for purposes of exclusion from FICA taxes (sec. 3121(w)(3)). Thus, the term "church" includes (1) a convention or association of churches, (2) an elementary or secondary school that is controlled, operated, or principally supported by a church or by a convention or association of churches, and (3) any church-controlled tax-exempt organization that does not receive substantial support from governmental sources or sales of goods or services. **Effective date**.--Effective as if included in the Reform Act of 1986.
b. Cafeteria plans	b. Cafeteria plans.--Under present law, life insurance that is funded prior to retirement under a cafeteria plan but provided after retirement is tested for discrimination when provided.	b. Cafeteria plans.--No provision.	b. Cafeteria plans.--Under the Senate amendment, post-retirement life insurance funded under a cafeteria plan is tested for discrimination when it is funded based on the amount of life insurance that could at that time be purchased (assuming sec. 79(c) costs) with the cafeteria plan elective contributions. **Effective date**.--Effective as if included in the Reform Act of 1986.

Item	Present Law	House Bill	Senate Amendment
2. Eligible deferred compensation plans: Modifications to section 457 (sec. 350 of the House bill and sec. 111(e)(11) of the Senate amendment)	Under present law, unfunded deferred compensation plans maintained by a State or local government or by a nongovernmental tax-exempt organization is subject to certain special rules (sec. 457). In Notice 88-68, the IRS announced that section 457 does not apply to bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, and death benefit plans. The 1986 Act extended section 457 to nongovernmental tax-exempt organizations.	The House bill repeals the provision in the 1986 Act extending section 457 to nongovernmental tax-exempt organizations and codifies IRS Notice 88-68. In addition, the House bill provides that section 457 does not apply to certain nonelective deferred compensation deferred pursuant to agreements in effect on July 14, 1988, and directs the Treasury Department to perform a study regarding the tax treatment of deferred compensation paid by State and local governments and tax-exempt organizations. Effective date.--In general, the provision is effective for taxable years beginning after December 31, 1987. The repeal of the extension of section 457 to nongovernmental tax-exempt organizations is effective as if included in the 1986 Act.	The Senate amendment codifies IRS Notice 88-68. Effective date.--The provision is effective with respect to taxable years beginning after December 31, 1978.
3. Section 403(b) nondiscrimination rules and certain other pension provisions (sec. 352(a) of the House bill and sec. 711 of the Senate amendment)	Under present law (as amended by the 1986 Act), nondiscrimination rules apply to contributions to tax-sheltered annuity programs. The nondiscrimination rules are generally effective for plan years beginning after December 31, 1988. Under the 1986 Act, final Treasury regulations relating to these nondiscrimination rules, as well as several other pension provisions of the 1986 Act, were to be issued by February 1, 1988.	The House bill provides that, in the absence of rules on which employers may rely, employers are permitted to make good faith reasonable interpretations of the section 403(b) nondiscrimination requirements. This reasonable interpretation standard remains in effect until the later of the first plan year beginning after December 31, 1990, or at least six months following the issuance of rules on which a taxpayer may rely. Effective date.--Date of enactment.	The Senate amendment modifies the nondiscrimination rules applicable to nonelective and matching contributions to tax-sheltered annuity programs as follows: (1) student employees who are not taken into account for employment tax purposes may be disregarded, (2) employees who normally work less than 20 hours per week may be disregarded, and (3) the nondiscrimination tests may be applied by testing at the level of the institution that maintains the plan, (4) for plan years beginning before January 1, 1992, the nondiscrimination rules may be applied by testing a statistically valid sample of employees, and (5) the special rules applicable to multiple employer qualified plans (sec. 413(c)) apply to multiple employer tax-sheltered annuity programs. Effective date.--Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
4. Required beginning date for public employees (sec. 352(b) of the House bill and sec. 720 of the Senate amendment)	Under the 1986 Act, benefits under qualified plans, IRAs, sec. 457 plans, and tax-sheltered annuities are required to begin no later than the April 1 of the calendar year following the calendar year in which the participant or owner attains age 70 1/2. This rule is generally effective for years beginning after December 31, 1988. Prior to the 1986 Act, distributions from such plans were generally required to begin by the later of (1) the April 1 of the calendar year following the calendar year in which the participant or owner attains age 70 1/2, or (2) the calendar year in which the participant retires.	The House bill repeals the 1986 Act required beginning date with respect to governmental plans. Effective date.--The provision is effective as if included in the 1986 Act.	The Senate amendment delays the general effective date of the 1986Act rule for 1 year for governmental plans and plans maintained by employers described in section 501(c)(3). Effective date.--Same as the House bill.
5. Limitations on contributions and benefits under qualified plans maintained by public employers (sec. 352(c) of the House bill and section 716 of the Senate amendment)	Present law (sec. 415) provides overall limits on contributions and benefits under qualified plans. The limits apply to all such contributions and benefits provided to an individual by any private or public employer. The overall limits have been modified several times, beginning with the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).	Under the House bill, in the case of a plan maintained by any State or local government, the limitation on benefits under a defined benefit pension plan with respect to a qualified participant is the greater of (1) the limitation normally applicable to benefits under a defined benefit pension plan, or (2) the accrued benefit of the participant without regard to any benefit increases pursuant to a plan amendment adopted after October 14, 1987. A qualified participant is a participant who first became a participant in the plan before January 1, 1989. The special rule does not apply unless the employer elects, by the close of the first plan year beginning after December 31, 1988, to have the normal section 415 limits (other than the special limits applicable to qualified police and firefighters) apply to all plan participants other than qualified participants. Effective date.--In the case of an electing employer, the provision generally applies to years beginning after December 31, 1982, and the normal section 415 limits apply to years beginning on or after January 1, 1989.	The Senate amendment is the same as the House bill, except that a qualified participant is a participant who first became a participant before January 1, 1990, and the election for general application of the 415 limits is required to be made by the close of the first plan year beginning after December 31, 1989. Effective date.--Same as the House bill, except that the normal section 415 limits shall apply with respect to an electing employer to years beginning on or after January 1, 1990.

Item	Present Law	House Bill	Senate Amendment
6. Minimum participation rule			
(a) Minimum participation rule for certain public retirement plans (sec. 352(d) of the House bill	(a) Under present law, a plan is not a qualified plan unless it benefits no fewer than the lesser of (1) 50 employees of the employer, or (2) 40 percent of all employees of the employer.	(a) The House bill provides that the minimum participation rule does not apply to any governmental plan with respect to employees who were participants in the plan on July 14, 1988. Effective date.--Date of enactment.	(a) No provision.
(b) Minimum participation rule for police and firefighters (sec. 712 of the Senate amendment)		(b) No provision.	(b) The Senate amendment provides that the minimum participation rule may be applied separately to employees who are police, firefighters, or emergency medical personnel employees of a governmental employer and other employees of the employer. Effective date.-- Date of enactment.
(c) Study of effects of minimum participation rules (sec. 718 of the Senate amendment)		(c) No provision.	(c) The Senate amendment also requires the Treasury Department to conduct a study on application of the rule to certain government contractors that are required by Federal law to provide certain employees with specific retirement benefits. The Treasury report is due by September 1, 1989. Effective date.--Date of enactment.

Item	Present Law	House Bill	Senate Amendment
7. Permit IRA acquisitions of State-issued coins (sec. 719 of the Senate amendment)	The acquisition by an individual retirement account (IRA) of any collectible is treated as a distribution from the IRA equal to the cost of the collectible and is includible in the IRA owner's income for the year in which the cost is deemed distributed. Under the Tax Reform Act of 1986, coins issued by the United States Government are not treated as collectibles.	No provision.	Coins issued under the laws of any State are not treated as collectibles for purposes of the IRA prohibition on investments in collectibles, as long as the coins are held by a person independent of the IRA owner. Effective date.--State coins acquired by an IRA after the date of enactment.
8. Application of pension funding rules to multiple employer plans (sec. 721 of the Senate amendment)	Under present law, the minimum funding requirement with respect to a multiple employer plan and the maximum permissible deductible contribution to a multiple employer plan are calculated at the plan level and not on a contributing employer by contributing employer basis.	No provision.	In the case of a plan established after December 31, 1988, each employer contributing to a multiple employer pension plan is treated as maintaining a separate plan for purposes of the minimum funding standard unless the plan uses a method for determining required contributions that provides that any employer contributes an amount at least equal to the amount that would be required if the employer maintained a separate plan. Effective date.--Date of enactment with respect to plans established after December 31, 1988. In the case of a multiple employer plan established on or before December 31, 1988, the plan administrator is permitted to elect to have the new rule apply to the plan. The election is required to be made on or before the last day of the first plan year beginning after the date of enactment and applies to the plan year during which the election is made and all subsequent plan years and may be revoked only with the consent of the Secretary.

Item	Present Law	House Bill	Senate Amendment
9. Application of section 415 limits to police and firefighters (sec. 800J of the Senate amendment)	Present law (sec. 415) provides overall limits on contributions and benefits under qualified pension, profit-sharing, and stock bonus plans, qualified annuity plans, tax-sheltered annuities, and simplified employee pensions (SEPs). In addition, present law provides a special floor on the annual limit on benefits with respect to certain police and firefighters. In the case of a qualified participant, the reduction provided for benefits payable before age 62 does not reduce the dollar limit on annual benefits below $50,000 at any age. A qualified participant is a participant in a defined benefit pension plan maintained by a State or political subdivision of a State if the period of service taken into account in determining the participant's benefit under the plan includes at least 20 years of the participant's service as (1) a full-time employee of any police department or fire department that is organized and operated by the State or political subdivision of a State maintaining the plan to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of that State or subdivision, or (2) a member of the Armed Forces of the United States.	No provision.	The 20 year of service requirement for eligibility for the special rule for police and firefighters is decreased to 15 years. **Effective date**.--Effective as if included in the Tax Reform Act of 1986.

Item	Present Law	House Bill	Senate Amendment
10. Employee leasing safe harbor rule (sec. 715 of the Senate amendment)	Certain employees of a leasing organization are considered employees of the service recipient for purposes of certain pension and employee benefit rules (sec. 414(n)). Under a safe-harbor rule, a service recipient is not required to maintain records with respect to leased employees if, among other things, less than 5 percent of the recipient's workforce are leased employees (determined in a simplified manner).	No provision.	Certain individuals are not considered leased employees of a service recipient if the service recipient satisfies the 5-percent test if the percentage is raised from 5 percent to 10 percent. The exempted individuals include any individual who (1) is credited with less than 3,000 hours of service for the service recipient over any two consecutive plan years beginning after December 31, 1986, and (2) did not perform services (as an employee or otherwise) for the service recipient within the same geographic area at any time within the calendar year immediately preceding the two-calendar-year period. Effective date.--Date of enactment.
11. Air transportation of cargo and passengers treated as same service for purposes of fringe benefit inclusion (sec. 353 of the House bill)	Under present law, a no-additional-cost service provided to an employee is not included in the employee's gross income (sec. 132). In order to qualify as a no-additional-cost service, a service is required to be offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services.	The House bill provides that the transportation of cargo by air and the transportation of passengers by air is treated as the same service. Effective date.--The provision applies to transportation furnished after December 31, 1987, in taxable years ending after such date.	No provision.

Item	Present Law	House Bill	Senate Amendment
12. Excise tax on dispositions of stock by an ESOP not to apply to certain involuntary dispositions (sec. 354 of the House bill and sec. 800G of the Senate amendment)	Under present law, if an employee stock ownership plan (ESOP) acquires stock pursuant to a sale that qualifies for a special estate tax deduction for sales of stock to an ESOP (sec. 2057), an excise tax applies if the ESOP disposes of the stock within 3 years of the acquisition.	The House bill provides that the excise tax does not apply to forced dispositions occurring by operation of a State law. Effective date.--The provision is effective as if included in the Revenue Act of 1987, (i.e., for disposition of securities by an ESOP after February 26, 1987).	Same as the House bill, except that the exception only applies to forced dispositions of publicly traded employer securities. Effective date.--Same as House bill.
13. Exclusion of interest paid on refinanced ESOP loans (sec. 800 of the Senate amendment)	Under present law, a bank, an insurance company, a regulated investment company, or a corporation actively engaged in the business of lending money may exclude from gross income 50 percent of the interest received with respect to a securities acquisition loan. A "securities acquisition loan" is generally defined as a loan to a corporation or to an ESOP to the extent that the proceeds are used to acquire employer securities.	No provision.	In the case of a refinancing of a securities acquisition loan that was made before October 22, 1986, the partial interest exclusion under section 133 is available for the greater of (1) the term of the original securities acquisition loan, or (2) the amortization period used to determine the regular payments under the original securities acquisition loan. (In the absence of the amendment, technical corrections would clarify that the maximum period the exclusion is available with respect to loan (including all refinancings) is the greater of 7 years or the commitment period of the original loan). Effective date.--Date of enactment.

Item	Present Law	House Bill	Senate Amendment
14. Nondiscrimination rules for cafeteria plans (sec. 800B of the Senate amendment)	Under present law, a cafeteria plan must be available to a reasonable classification of employees that does not discriminate in favor of highly compensated employees (sec. 125). An employer may test coverage of its employee benefit plans (other than cafeteria plans) separately on a line of business basis under certain circumstances. In order to test a plan on this basis, the plan must cover a reasonable classification of employees that does not discriminate in favor of highly compensated employees.	No provision.	The Senate amendment provides that the Secretary may provide that the reasonable classification test applicable to cafeteria plans (sec. 125(b)(1)) is applied in a different manner than the reasonable classification test applicable under the qualified plan coverage (sec. 410(b)) and line of business rules (sec. 414(r)). Effective date.--Effective as if included in section 1151(d)(1) of the Reform Act.
15. Cash or deferred arrangements of railroad employees (sec. 800Q of the Senate amendment)	A special exception to the general pension coverage rules for employees subject to a collective bargaining agreement permits the coverage rules to be applied to a plan established pursuant to a collective bargaining agreement covering air pilots as if the employees covered by the bargaining agreement were the only employees of the employer. A qualified cash or deferred arrangement (sec. 401(k)) is required to benefit a group of employees that satisfies the coverage tests.	No provision.	The Senate amendment expands the special rule for collectively bargained plans covering air pilots to collectively bargained plans for railroad employees. Effective date.--Years beginning after December 31, 1988.

Item	Present Law	House Bill	Senate Amendment
16. Application of section 415 limits to collectively bargained plans (sec. 800W of the Senate amendment)	Under present law, the limit on the benefit provided by a defined benefit pension plan is generally the lesser of (1) 100 percent of average compensation, or (2) $90,000 (sec. 415). Prior to the 1986 Act, if payment of retirement benefits began before age 62, then the dollar limit was generally reduced so that it was the actuarial equivalent of an annual benefit of $90,000 beginning at age 62. In no event, however, was the dollar limit applicable to benefits beginning at or after age 55 less than $75,000. Under the law prior to the 1986 Act, if benefits began before age 55, then the dollar limit was actuarially reduced so that it was the greater of (1) the actuarial equivalent of a $75,000 benefit beginning at age 55, or (2) the actuarial equivalent of the applicable dollar limit at age 62. The 1986 Act eliminated the $75,000 floor so that the $90,000 limit is reduced for any one retiring before the social security retirement age (currently 65, scheduled to increase to 67). In the case of a plan maintained pursuant to one or more collective bargaining agreements ratified before March 1, 1986, the 1986 Act provisions do not apply to benefits under such agreements in years beginning before the earlier of (1) the date on which the last of such collective bargaining agreements terminates, or (2) January 1, 1989.	No provision.	The Senate amendment further extends the effective date of the 1986 Act provisions in the case of collectively bargained plans. Under the amendment, in the case of a plan established on or before March 1, 1986, pursuant to one or more collective bargaining agreements, the 1986 provisions do not apply to benefits pursuant to such agreements until the first plan year beginning on or after October 1, 1991. Effective date.--Date of enactment.

Item	Present Law	House Bill	Senate Amendment
17. Application of section 89 nondiscrimination rules to small employers (sec. 800X of the Senate amendment)	Under present law, accident and health plans and certain other employee benefit plans are required to satisfy certain nondiscrimination rules (sec. 89). Such a plan is considered nondiscriminatory if it satisfies three eligibility tests and a benefits tests. Under an alternative test, a plan is considered nondiscriminatory if it benefits at least 80 percent of the employer's nonhighly compensated employees. Under present law, employees who normally work less than 17-1/2 hours per week are disregarded for purposes of the nondiscrimination rules.	No provision.	Under the Senate amendment, in applying the 80 percent test to a plan maintained by an employer with less than 10 employees (1) employees who normally work 35 hours or less per week may be disregarded in applying the test to plan years beginning in 1989, (2) employees who normally work 25 may be disregarded in applying the test to plan years beginning in 1990, and (3) the present-law rule applies to plan years beginning in or after 1991. Effective date.--The provision is effective as if included in the 1986 Act.
18. Allocation of assets in case of plan spin-offs (sec. 800Z of the Senate amendment)	Under present law, a plan is not a qualified plan unless in the case of any merger or consolidation of the plan with, or in the case of any transfer of assets or liabilities of such plan to, any other plan, each participant receives benefits on a termination basis from the plan immediately after the merger, consolidation, or transfer that is at least equal to the benefit the participant would have received on a consolidation, or transfer (sec. 414(1)). This rule also applies to plan spin-offs, that is, the splitting of a plan into two or more plans.	No provision.	The technical corrections provisions provide that, in the case of spin-offs and similar transactions involving defined benefit plans (within a controlled group) the excess assets (i.e., assets in excess of the amount required to be allocated to a plan under present law) are to be allocated proportionately among the spun-off plans. The allocation rule also applies to a spin-off involving a plan maintained by a bank that has been closed by appropriate bank authorities and a plan maintained by a bridge bank (as described in 12 U.S.C. 1821(i)). The amendment also authorizes the bridge bank to cause the plan maintained by the closing bank to spin-off assets to a defined benefit plan maintained by the bridge bank in accordance with the allocation rule within 180 days after the closing of the bank. Effective date.--Transactions occurring after July 26, 1988.

Item	Present Law	House Bill	Senate Amendment
D. Insurance Provisions			
1. Treatment of certain workers' compensation funds (sec. 345 of the House bill)	Under applicable State law or regulation, workers' compensation liabilities may be pooled as self-insured workers' compensation funds. Such funds generally are treated as mutual property and casualty insurance companies for Federal income tax purposes. In audits, the Internal Revenue Service has raised the issue whether the requirements for deductibility of policyholder dividends have been met in cases in which the declared dividend is contingent upon subsequent approval of the amount of the dividend by State regulatory authorities (e.g., the State workers' compensation board). The Tax Reform Act of 1986 imposed a moratorium with respect to audits and litigation relating to self-insured workers' compensation funds, for the period commencing on October 22, 1986, and ending on August 16, 1987.	For taxable years beginning before January 1, 1987, a deficiency is not to be assessed against (and, if assessed, is not to be collected from) a qualified group self-insurers' fund to the extent that the deficiency is attributable to the timing of the deduction for policyholder dividends. For taxable years beginning on or after January 1, 1987, a fund's deduction for policyholder dividends is allowed no earlier than the date that the State regulatory authority determines the amount of the policyholder dividend that may be paid. Effective date.--Date of enactment.	No provision.
2. Prepaid tax certificates (sec. 349 of the House bill)	Property and casualty insurance companies are required to discount unpaid loss reserves to take account partially of the time value of money. Thus, the deduction for unpaid losses is limited to the net increase in the amount of discounted unpaid losses. Any net decrease in loss reserves results in income inclusion, but the amount to be included is computed on a discounted basis.	Any insurance company that is required to discount unpaid losses is allowed an additional deduction that is not to exceed the excess of (1) the amount of the undiscounted unpaid losses, over (2) the amount of the related discounted unpaid losses, to the extent the amount was not deducted in a preceding taxable year. This deduction is available only if the company purchases a prepaid tax certificate in an amount equal to the tax benefit attributable to the deduction. The company is required to establish a special loss discount account, to which is added each year the amount of the additional deduction under this provision. The prepaid tax certificate is to be redeemed only when the amount of the above deduction is released from the company's special loss discount account and included in income. The amount redeemed may be applied only to pay taxes due because of this inclusion. Effective date.--Taxable years beginning after December 31, 1987.	No provision.

Item	Present Law	House Bill	Senate Amendment
3. **Phase-in of property and casualty insurance company discounting rules for certain hospital insurers (sec. 758 of the Senate amendment)**	Present law limits the reserve for unpaid losses of property and casualty insurance companies to the amount of discounted unpaid losses. The amount of discounted unpaid losses is determined on a line-of-business basis by applying a historical loss payment pattern for the line of business and a specified rate of interest. The discounting rules are effective for taxable years beginning after December 31, 1986, with a fresh start transition rule.	No provision.	An elective phase-in of the discounting rules for taxable years beginning in 1987 and 1988 is provided for qualified nonprofit hospital insurers. A qualified nonprofit hospital insurer is any domestic insurance company other than a life insurance company if, for the taxable year for which an election is in effect, (1) at least 75 percent of the value and voting power of the company is owned by nonprofit health care facilities or trade associations of such facilities, (2) a majority of the insurance or reinsurance provided by the company covers risks of nonprofit health care facilities, and (3) at least 75 percent of the insurance provided by the company is medical malpractice or general liability insurance. Under the phase-in, the amount of the discounted unpaid losses of an electing company is to be increased by 20 percent of the difference between discounted and undiscounted unpaid losses for a taxable year beginning in 1987. For a taxable year beginning in 1988, the amount of the discounted unpaid losses of an electing company is to be increased by 10 percent of such difference. The fresh start and reserve strengthening provisions contained in the Tax Reform Act of 1986 apply for each taxable year of an electing company beginning in 1987, 1988 and 1989. **Effective date.**--Taxable years beginning in 1987 and 1988.
4. **Diversification requirements for variable contracts (sec. 800Q of the Senate amendment)**	Under present law, the owner of a variable annuity or variable life insurance contract that is based on a segregated asset account is subject to current taxation on the earnings on the contract if the underlying investments of the segregated asset account are not, under Treasury regulations, adequately diversified (section 817(h)). Treasury regulations provide that any obligation issued, guaranteed or insured by the United States or an agency or instrumentality of the United States is treated as a single investment for purposes of the annuity diversification requirement.	No provision.	Each agency or instrumentality of the United States is treated as a separate issuer for purposes of the annuity diversification requirement. **Effective date.**--Taxable years beginning after December 31, 1987.

Item	Present Law	House Bill	Senate Amendment
E. Excise Tax Provisions			
1. Certain repairs not treated as manufacturing for the retail excise tax on trucks (sec. 729 of Senate amendment)	A 12-percent retail excise tax is imposed on heavy trucks and trailers. Extensive repairs after a truck or trailer has been in use for several years may trigger liability under the excise tax because the repairs are considered to have resulted in the manufacture of a new vehicle (sec. 4051). Three categories of operations performed on a vehicle may be considered manufacturing under Treasury Department regulations. The first category involves additions or modifications to a chasis or body that change the transportation function of the vehicle. The second category involves fabrication of a usable truck from a wrecked vehicle. The third category pertains to a used vehicle on which repairs or other modifications are so extensive that they extend its useful life.	No provision.	The Senate amendment creates a safe harbor threshold of 75% of repair costs to full retail price of a comparable new truck below which repairs to a truck which has been in service are treated as repairs rather than, in effect, a manufacture of a new truck. Effective date.--Date of enactment.
2. Reduced gasoline excise tax rate for gasohol blenders (sec. 800A of the Senate amendment)	Registered gasohol blenders pay a 3 1/3 cents per gallon excise tax rate at the time of removal or sale of any gasoline purchased for producing gasohol; in these situations, the alcohol used in making the gasohol blend is purchased from the same seller.	No provision.	The reduced gasoline excise tax rate applies whether or not the gasoline and alcohol are purchased at an identical location, so long as the purchases are reasonably contemporaneous, i.e., within a 24-hour period, and the blender and sellers comply with the applicable registration, reporting and recordkeeping requirements imposed by the Secretary of the Treasury. Effective date.--Gasoline sales on or after date of enactment.

Item	Present Law	House Bill	Senate Amendment
3. Application of annual distilled spirits occupational tax			
a. Exemption for certain educational organizations receiving distilled spirits tax-free for research purposes (sec. 727 of the Senate amendment)	An annual occupational tax of $250 is imposed on persons dealing in specially denatured distilled spirits, including persons using these distilled spirits for research purposes. (The taxable year for the tax is July 1-June 30.)	No provision.	Exemption from the occupational tax is provided to government and nonprofit educational organizations (scientific university, college, or institution of scientific research) that purchase 25 gallons or less of these spirits during a calendar year for experimental or research use. Effective date.--July 1, 1989.
b. Exemption for certain small plants producing exclusively for fuel uses (sec. 752 of the Senate amendment)	An annual occupational tax of $1,000 per premise is imposed on each proprietor of a distilled spirits plant. The tax is $500 per year for businesses with gross receipts of less than $500,000 in the preceding taxable year.	No provision.	Exemption from the occupational tax is provided to distilled spirits plants which (1) produce distilled spirits exclusively for fuel use, and (2) produce no more than 10,000 proof gallons per year. Effective date.--July 1, 1989.
4. Allow quarterly payment of excise tax on bows and arrows (sec. 379 of the House bill)	An 11-percent excise tax is imposed on taxable bows and arrows. This tax, like most other excise taxes, generally is required to be deposited semi-monthly. Excise tax returns are required to be filed on a quarterly basis.	Persons liable for payment of the excise tax on bows and arrows are excused from the semi-monthly excise tax deposit requirements. Thus, the tax would be paid when the regular quarterly excise tax return is filed. Effective date.--Taxable events after December 31, 1988.	No provision.

Item	Present Law	House Bill	Senate Amendment
5. **Commencement date of oil Spill Liability Trust Fund and excise tax on petroleum (sec. 384 of the House bill)**	The 1986 Budget Reconciliation Act established the Oil Spill Liability Trust Fund and a tax of 1.3 cents per barrel on crude oil and refined products subject to the Superfund petroleum tax. The trust fund and tax provisions were to have taken effect at the beginning of the first calendar month beginning more than 30 days after the enactment of a law before September 1, 1987 authorizing the oil spill liability program. Since authorizing legislation was not enacted by September 1, 1987, the trust fund and tax provisions did not take effect.	The House bill extends the commencement date so that the Oil Spill Liability Trust Fund and petroleum tax will take effect if qualified legislation authorizing an oil spill liability program is enacted by December 31, 1990. Effective date.--Date of enactment.	No provision.
6. **Harbor maintenance tax to be imposed once certain Alaska, Hawaii or possessions cargo (sec. 800Y of the Senate amendment)**	The Water Resources Development Act of 1986 (P.L. 99-662) established a harbor maintenance user tax of 0.04 percent of the value of the commercial cargo loaded or unloaded at a United States port (sec. 4461), effective on April 1, 1987. Commercial cargo is defined as any cargo transported on a commercial vessel, including passengers transported for compensation of hire. Under regulations issued by the U.S. customs Service, the user tax is assessed on any cargo loaded or unloaded at a U.S. port, unless otherwise exempted. Under present law and regulations, multiple taxation may occur on import and export discharged at a U.S. port for waterborne conveyance to another U.S. port on a different vessel. No tax is imposed on cargo shipped between the U.S. mainland and Alaska, Hawaii, or a U.S. possession for ultimate use therein.	No provision.	The Senate amendment provides that the harbor maintenance tax is to be imposed only once on cargo (other than Alaska crude oil) that is loaded or unloaded in a continuous transportation under a single bill of lading to or from a port in Alaska, Hawaii, or a U.S. possession. Effective date.--Date of enactment.

Item	Present Law	House Bill	Senate Amendment
7. Study of cigarette excise tax and effects of smoking on health care costs; economic impact of tobacco excise taxes (sec. 378 of the House bill and sec. 736 of the Senate amendment)	Excise taxes are imposed on cigars, cigarettes, cigarette paper and tubes, and on snuff and chewing tobacco. The tax on small cigarettes is 16 cents per pack of 20 cigarettes. Most taxable cigarettes are small cigarettes.	The bill requires an on-going study by the Secretary of the Treasury, after consulting with the Surgeon General, of: (1) the public and private health care costs incurred (with respect to smokers, their spouses, and others) as a result of cigarette smoking in the United States; (2) the incidence of cigarette smoking in the U.S. by adults and by teenage and younger children; and (3) the impact of the rate of cigarette excise tax on smoking by adults and by teenage and younger children. Reports of the results of the study are to be submitted every two years to the House Committee on Ways and Means and the Senate Committee on Finance, with the first report to be submitted by January 1, 1989.	The Senate amendment requires a study by the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, of: (1) the direct public (and private, to the extent determinable) health care costs incurred (with respect to smokers, their spouses, and others) as a result of cigarette smoking in the United States; (2) the changes in incidence of cigarette smoking in the U.S. over the past 20 years; (3) the impact of the rate of the cigarette excise tax on cigarette smoking among all age groups; (4) the distributional effects of all Federal tobacco excise taxes among income classes; (5) the impact of changes in the cigarette excise tax rate on State and local cigarette tax revenues and on the farm economy; and (6) the changes in cigarette excise tax rates imposed by States and localities since 1958. The report of the study is to be submitted to the House Committee on Ways and Means and Agricultural and the Senate Committees on Finance and Agriculture. The report is due by July 1, 1989.

Item	Present Law	House Bill	Senate Amendment
F. Foreign Provisions			
1. Foreign currency transactions (sec. 358 of the House bill and sec. 744 of the Senate amendment)	Uniform residence-based sourcing and ordinary income and loss characterization rules apply to certain gains and losses on foreign currency-related forward contracts, futures contracts, options, and similar financial instruments, unless those instruments are marked to market under section 1256 at year-end. At the taxpayer's election, gain or loss on a forward, futures, or option which is a capital asset in the hands of the taxpayer, is not part of a straddle, and is identified by the taxpayer before the close of the day on which it is entered into, is capital, and not ordinary.	Sources foreign currency gains and losses from transactions in forwards, futures, options, and similar financial instruments on the basis of the taxpayer's residence, and, unless the capital gain election is applicable, treats those gains as ordinary income, without regard to whether the instruments are or would be marked to market under section 1256 if held at year end. Relaxes the identification and anti-straddle conditions on making the capital gain election in the case of certain traders. Effective date.--Transactions acquired or entered into after July 14, 1988.	Same as the House bill. Effective date.--Transactions acquired or entered into after September 8, 1988.
2. Chain deficit rule for controlled foreign corporations (sec. 746 of the Senate amendment)	Deficits generated by a controlled foreign corporation cannot reduce the subpart F income of any other controlled foreign corporation. Under the technical corrections bill, these deficits could reduce the subpart F income of another controlled foreign corporation in limited circumstances, generally when the deficits are attributable to categories of business activities the income from which is subject to current tax under subpart F. Insurance income is a type of income that is subject to subpart F unless it is attributable to the insurance of risks in the same country in which the corporation is organized.	No provision.	Provides an election to controlled foreign corporations to treat same-country insurance income as subpart F income so long as all related, controlled foreign corporations organized in the same country elect (thus making same-country insurance income eligible for reduction under the deficit rules of subpart F), and, for purposes of determining whether investment income is derived from qualified activities, treats electing corporations as one corporation. Effective date.--Effective as if included in the Tax Reform Act of 1986.

Item	Present Law	House Bill	Senate Amendment
3. Qualified possession source investment income (sec. 747 of the Senate amendment)	A possession tax credit is available on qualified possession source investment income (QPSII) of certain electing domestic corporations engaged in a trade or business in Puerto Rico or the Virgin Islands. In order to be QPSII, investment income generally must be, among other things, attributable to investment in a possession where a trade or business is conducted, for use in that possession. Under the 1986 Act, investments in certain financial intermediaries are treated as investments for use in Puerto Rico if the intermediary makes approporiate investments in qualified Caribbean Basin countries, which do not include the U.S. Virgin Islands.	No provision.	Treats the U.S. Virgin Islands as a qualified Caribbean Basin country for purposes of determining whether investments in financial intermediaries give rise to QPSII. Effective date.--Effective for investments made after date of enactment.
4. Banks organized in possessions (sec. 749 of the Senate amendment)	Certain non-Guamanian possession banks are subject to net-basis U.S. income tax and to branch level taxes with respect to interest on U.S. government obligations, regardless of whether such banks have an actual trade or business in the United States.	No provision.	Excludes possession banks from net-basis U.S. taxation on interest on U.S. government obligations that is portfolio interest, and from the branch-level taxes on earnings that arise from, and interest expense that is allocated against, interest income on U.S. obligations derived by those banks (unless those banks are engaged in a U.S. trade or business and the interest is actually effectively connected therewith). Effective date.--Effective for taxable years beginning after December 31, 1988.
5. Gambling winnings of nonresident aliens (sec. 360 of the House bill)	A 30-percent withholding tax is imposed on certain U.S. source income not effectively connected with a U.S. trade or business. Subject to exceptions, the IRS collects this tax on gambling winnings of nonresident aliens. Currently, the IRS does not collect this tax on winnings from certain "table games."	Excludes winnings from blackjack, roulette, baccarat, craps, and big six wheel from the 30 percent withholding tax, except to the extent provided in regulations. Effective date.--Effective for winnings after date of enactment.	No provision.

Item	Present Law	House Bill	Senate Amendment
6. Controlled foreign insurance corporations owned by U.S. persons (sec. 797 of the Senate amendment)	Controlled foreign corporations engaged in the insurance business in the United States are subject to branch level taxes even if they are owned by U.S. persons. Reorganization of these corporations as U.S. corporations would require that their accumulated earnings and profits be deemed distributed as dividends to their U.S. owners in order for those reorganizations to be considered nonrecognition events.	No provision.	Provides an election to be treated as a U.S. corporation to controlled foreign corporations engaged in the insurance business in the United States. Treats dividends paid out of earnings and profits of pre-election years as coming from a foreign corporation. Requires the payment by an electing corporation of a tax equal to three-quarters of one percent of capital and surplus accumulated as of December 31, 1987 (but limited to $1,500,000), in lieu of causing earnings and profits accumulated as of that date to be deemed distributed. Adopts anti-abuse rules to prevent the repatriation of pre-election period earnings and profits without the current payment of U.S. tax. Effective date.--Effective for taxable years beginning after December 31, 1987.
7. Tax exemption for Enjebi Community Trust Fund (sec. 383 of the House bill)	The Enjebi Community Trust Fund was established in section 103(k) of the Compact of Free Association Act of 1985 (P.L. 99-239) to provide a means of financing the future rehabilitation of Enjebi Island in the Enewetak Atoll, which was used by the United States as ground zero for numerous nuclear weapons tests conducted in the 1940's and 1950's.	Exempts earnings on and distributions from the Enjebi Community Trust Fund from Federal, State, and local taxation. Effective date.--Effective for all open taxable years.	No provision.
8. Cost-of-living allowances for judicial branch employees outside the U.S. (sec. 759 of the Senate amendment)	Civilian officers or employees of the U.S. government stationed outside the contiguous 48 states and the District of Columbia can exclude from gross income cost-of-living allowances received in accordance with regulations approved by the President. Cost-of-living allowances paid to federal court employees of the U.S. government (after October 12, 1987) are not received under regulations approved by the President and are not excludable from gross income.	No provision.	Excludes from gross income cost-of-living allowances received by judicial branch employees stationed outside the contiguous 48 states and the District of Columbia if they are received under regulations approved by the President or under rules similar to such regulations. Effective date.--Effective for amounts received after October 12, 1987.

Item	Present Law	House Bill	Senate Amendment
9. Dividends paid by U.S. corporations (sec. 112(g)(1)(B) of the Senate amendment)	The 1986 Act made dividends paid by U.S. corporations (other than sec. 936 corporations) to U.S. persons U.S. source, even if the U.S. corporation is doing most of its business outside the United States. A technical correction contained in H.R. 4333 and S. 2238 clarifies that the 1986 Act was to be effective for dividends paid in taxable years beginning after December 31, 1986.	No provision.	Provides an election to have the 1986 Act's provision making dividends paid by U.S. corporations to U.S. persons U.S. source effective for dividends paid after December 31, 1986.
10. Study on the definition of resident alien (sec. 800N of the Senate amendment)	The Tax Reform Act of 1984 established objective rules in defining a resident alien for U.S. income tax purposes. Generally, an individual is a resident alien if he or she is lawfully accorded the privilege of residing permanently in the United States, or is present in the United States for a prescribed period of time in the current year or a sufficient period of time in the current and previous two years.	No provision.	Requires the Treasury to complete a study before May 1, 1989 of the Code definition of resident alien, in order to examine the administrability of the definition, its effect on investment flows into the United States, the definitions used by U.S. trading partners, the relationship of the definition with U.S. treaties, and the estimated revenue impact of changing the definition.
11. Bermuda and Barbados income tax treaties (sec. 1013 of the Senate amendment)	The United States taxes U.S. source insurance income derived by a foreign person either as income effectively connected with a U.S. business, which is taxed on a net basis, or as income not so connected, which is taxed on a gross basis. The U.S.-Barbados income tax treaty waives the latter tax when the income is derived by qualifying Barbadian corporations. The pending U.S.-Bermuda treaty also would waive the gross-basis tax but only for premiums paid after 1985 and before 1990.	No provision.	Provides that neither the Barbados nor Bermuda income tax treaty with the United States shall waive the United States' gross basis excise tax for premiums paid or credited on or after January 1, 1990.

Item	Present Law	House Bill	Senate Amendment
G. Estate Tax Provision **1. Special use valuation of farm property for estate-tax purposes (sec. 370 of the House bill and sec. 706 of the Senate amendment)**	If the executor so elects, the value of real property used as a farm or in another trade or business is its value in such use rather than in its highest and best use. A recapture tax is imposed if the person receiving the property ceases using it in its qualified use within 10 years (15 years for individuals dying before 1982) after the death of the person in whose estate the property was specially valued.	A surviving spouse's cash rental of specially valued real property to a member of the spouse's family is not treated as a cessation of a qualified use. Effective date.--Rentals occurring after date of enactment.	Same as the House bill. Effective date.--Rentals occurring after December 31, 1976, with a waiver of the statute of limitations for claims filed within one year after the date of enactment.

Item	Present Law	House Bill	Senate Amendment
H. Tax-Exempt Bonds **1. Clarification of definition of manufacturing for qualified small issue bonds (sec. 362 of the House bill)**	Qualified small-issue bonds are tax-exempt private activity bonds that are issued to finance manufacturing facilities and that satisfy certain size limitations. A manufacturing facility is defined as a facility for the production of tangible personal property. A de minimus amount of space in a manufacturing plant which is devoted to offices may be disregarded if the office space is directly related to the manufacturing process.	The bill clarifies that up to twenty-five percent of the proceeds of a qualified small issue may be used to finance ancillary activities which are carried out at the manufacturing site. All such ancillary activities must be subordinate to and integral to the manufacturing process. Effective date.--Bonds (including refunding bonds) issued after the date of enactment. Transitional exception permits bonds issued before that date to be currently refunded after the date of enactment if the weighted average maturity of the refunded bonds is not increased and the amount of the refunding issue does not exceed the outstanding principal amount of the refunded bonds.	No provision.
2. Extension of minimum period for calculating TRAN safe-harbor compliance (sec. 363 of the House bill).	Arbitrage earnings from investment of tax and revenue anticipation note (TRAN) proceeds must be rebated to the Federal Government under the same rules as apply to other tax-exempt bonds (Code sec. 148). A special safe-harbor calculation is provided, however, for determining whether TRAN issues are exempt from rebate under a general exception for tax-exempt bonds the gross proceeds of which are spent for the governmental purpose of the borrowing within six months after the bonds are issued. Under this safe harbor, TRAN net proceeds are treated as so spent if the issuer's cumulative cash flow deficit for the period beginning on the date the notes are issued and ending on the earliest of (a) the maturity date of the TRANs, (b) the date that is six months after the TRANs are issued, or (c) the actual date the issuer's cash flow deficit exceeds 90 percent of the TRAN proceeds. Final rebate payments for bond issues are due 60 days after the bonds are redeemed.	For TRANs having a maturity of less than six months, the period for determining the issuer's cumulative cash flow deficit for purposes of the safe harbor will be the period beginning on the date the bonds are issued and ending on the earlier of (a) the date that is six months after the TRANs are issued or (b) the actual date the issuer's cash flow deficit exceeds 90 percent of the TRAN proceeds. The bill further provides that the final rebate payment on TRAN issues having a maturity of less than six months will be due no earlier than eight months after the date of the issue. Effective date.--Bonds issued after the date of enactment.	No provision.

Item	Present Law	House Bill	Senate Amendment
3. Application of security interest test to bond financing of hazardous waste clean-up funds (sec. 738 of the Senate amendment)	State and local governments may issue tax-exempt bonds to finance governmental activities, but may issue tax-exempt private activity bonds only for specified purposes. Several States are considering issuance of tax-exempt bonds to finance hazardous waste clean-up activities. Present law is unclear as to when these bonds are governmental bonds if the proceeds are used to finance activities on private property and if reimbursement may be sought from private parties.	No provision.	Directs the Treasury Department to issue guidance concerning the application of the private activity bond test to tax-exempt bond financing for State programs before January 1, 1989. Effective date.--Date of enactment.
4. Tax-exempt financing for certain high-speed rail facilities (sec. 739 of the Senate amendment)	States and local governments are permitted to issue tax-exempt private activity bonds to finance certain exempt facilities, which include airports, docks and wharves, mass commuting facilities, and sewage facilities among others. With the exception of bonds for airports and docks and wharves, exempt-facility bonds are subject to State private activity volume limitations. To qualify for tax-exempt finance, airport, dock and wharf, and mass commuting facilities must be governmentally owned.	No provision.	The Senate amendment creates a new category of exempt-facility bond: bonds to finance certain high-speed intercity rail facilities. A high-speed rail facility is a rail (or magnetic levitation technology) facility on which it is reasonably expected that passenger trains will operate between stations at average speeds in excess of 150 miles per hour. Bonds for high-speed rail facilities generally receive the same treatment as bonds for airport facilities, with three exceptions. First, the facilities financed with such bonds need not be governmentally owned. (However, any private owner must make an irrevocable election not to claim depreciation or any tax credit with respect to any bond financed property). Second, 25% of the bonds issued for high-speed rail facilities must receive State private activity volume cap allocation. Third, any proceeds not spent within three years of the date of issue must be used to redeem outstanding bonds. Effective date.--Bonds issued after the date of enactment.

Item	Present Law	House Bill	Senate Amendment
5. Clarification of Treasury Department arbitrage rebate regulatory authority with respect to governmental bonds (sec. 363(b) of the House bill).	Issuers of tax-exempt bonds are required to rebate to the Federal Government arbitrage profits on investments unrelated to the governmental purpose of the borrowing (Code sec. 148). The Treasury Department currently is drafting regulations interpreting and providing administrative guidance on this requirement.	The bill clarifies Treasury's arbitrage rebate authority in two respects. First, it states the understanding that the Treasury Department is authorized to create safe harbors in certain instances for calculating rebate payments with respect to governmental bonds that remain subject to the rebate requirements. Second, it states the desire of the House that the Treasury Department is to have as a primary objective in promulgating arbitrage rebate regulations for governmental bonds that remain subject to the rebate requirement the adoption of regulations that are workable and understandable to the governmental units that must comply with them. Effective date.--As if included in the Tax Reform Act of 1986.	No provision.
6. Application of arbitrage rebate requirement to bona fide debt service funds (sec. 364 of the House bill and sec. 740 of the Senate amendment)	Issuers of tax-exempt bonds are required to rebate to the Federal Government arbitrage earnings on investments unrelated to the governmental purpose of the borrowing (Code sec. 148). No rebate is required with respect to an issue if all gross proceeds of the issue are spent for the governmental purpose of the borrowing within six months after the bonds are issued. At the election of the issuer, amounts invested in a bona fide debt service fund (i.e., a fund to satisfy current debt service on the bonds) are exempt from the rebate requirement if the gross earnings on the fund are less than $100,000.	The $100,000 gross earnings limit is waived for issues of governmental bonds having a weighted average maturity of five years or more and bearing interest at rates that are fixed on the date of issue and that do not vary during the term of the bonds. Also, the present-law election to be exempt from the arbitrage rebate requirement for bona-fide debt service funds is made automatic for these and other bonds. The present law election is being deleted. Effective date.--Bonds issued after the date of enactment.	Same as the House bill. Effective date.--Same as the House bill, except issuers of outstanding governmental fixed rate bonds may elect to apply the new rule for governmental bonds to amounts deposited in bona fide debt service funds after the date of the bill's enactment.

Item	Present Law	House Bill	Senate Amendment
7. Certain volunteer fire departments to qualify for tax-exempt financing (sec. 365 of the House bill)	Tax-exempt bonds may be issued to finance firehouses and firetrucks for volunteer fire departments if the fire departments are the only organization providing firefighting services to the jurisdiction which they serve and if they are required by written agreement with the governmental unit to provide such services (Code sec. 150). The Treasury Department ruling position is that land may not be financed with these tax-exempt bonds, even though the land is functionally related and subordinate to a firehouse being financed.	An exemption from the requirement that a volunteer fire department be the exclusive provider of firefighting services in its service area is provided for volunteer fire departments where the governmental unit served has been served continuously and exclusively served by more than one volunteer fire department since January 1, 1981. The bill also clarifies that a reasonable amount of land that is functionally and related to a firehouse qualifying for tax-exempt financing may be financed with tax-exempt bonds as part of the acquisition or construction of the firehouse. Effective date.--Bonds issued after the date of enactment.	No provision.

Item	Present Law	House Bill	Senate Amendment
8. Disregard of pooled financings in determination of qualification for small-issuer exception (Senate amendment)	To qualify for tax-exemption, the bonds of State and local govenments must satisfy certain arbitrage restrictions, among them the rebate of nonpurpose arbitrage earnings to the Federal Government. Governmental units which issue no more than $5 million in bonds during the calendar year (not counting private activity bonds) are exempt from the rebate requirement. Regardless of the ultimate borrower of the funds from a pooled financing, the bonds issued count towards the determination of whether the issuer qualifies as a small-issuer.	No provision.	In the case of pooled financings where the ultimate borrowers are governmental units with general taxing powers, and the issuer of the bonds is not an ultimate borrower, the bonds comprising the pooled financing shall not count towards the determination of the $5 million small-issuer exception. Effective date.-- Bonds issued after December 31, 1988.

Item	Present Law	House Bill	Senate Amendment
I. Exempt Organizations			
1. Effective date for UBIT treatment of income from certain games of chance (sec. 724 of the Senate amendment)	Section 311 of the Deficit Reduction Act of 1984 provided that the unrelated business income tax (UBIT) does not apply to income of a tax-exempt organization derived from conducting a game of chance in a State having a statute, in effect as of October 5, 1983, providing that only nonprofit organizations could conduct such activities; this provision applied to such income derived after June 30, 1981. However, the technical corrections title of the Tax Reform Act of 1986 specified that the only State law to which the 1984 Act provision was intended to apply was a particular North Dakota law. Accordingly, such income derived in other States that tax-exempt organizations had treated as not subject to UBIT pursuant to the 1984 Act was retroactively treated as taxable.	No provision.	The effective date of the 1986 Act technical correction described under Present Law is made effective beginning October 22, 1986 (the date of enactment of the technical correction). As a result, the treatment of income derived by tax-exempt organizations from games of chance conducted prior to that date is governed by section 311 of the Deficit Reduction Act of 1984 as originally enacted. Effective date.--Date of enactment (with respect to games of chance conducted prior to October 22, 1986).
2. Purchasing of insurance by tax-exempt hospital service organizations (sec. 725 of the Senate amendment)	Section 501(e) provides tax-exempt status for hospital service organizations operated solely to perform, on a centralized basis, one or more of the following enumerated services: purchasing, data processing, warehousing, billing and collection, food, clinical, industrial engineering, laboratory, printing, communications, record center, and personnel services.	No provision.	The provision clarifies that the purchasing activities that may be carried on by a tax-exempt hospital service organization include the acquisition, on a group basis, of insurance (such as malpractice and general liability insurance) for its hospital members. Effective date.--Purchases made before, on, or after the date of enactment.
3. Determination of operating foundation status for certain purposes (sec. 386 of the House bill)	Section 302 of the Deficit Reduction Act of 1984 exempted certain operating foundations from the section 4940 excise tax on the net investment income of a private foundation. The exempted organizations included any private foundation that constituted an operating foundation (as defined in sec. 4942(j)(3)) as of January 1, 1983 and that met certain other requirements.	For purposes of section 302(c)(3) of the Deficit Reduction Act of 1984, a private foundation that constituted an operating foundation (as defined in sec. 4942(j)(3)) for its last taxable year ending before January 1, 1983 is treated as constituting an operating foundation as of January 1, 1983 and therefore as meeting the requirements of section 4940(d)(2)(B). Effective date.--Date of enactment.	No provision.

Item	Present Law	House Bill	Senate Amendment
4. Treatment of exempt-organization expenditures to influence the nomination or appointment of individuals to nonelective public office (Senate amendment)	A charity or other tax-exempt organization is treated as having taxable income equal to the lesser of (1) its expenditures for "exempt function" activities or (2) its net investment income (sec. 527(f)). For this purpose, "exempt function" includes influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office, whether such individual is selected, nominated, elected, or appointed. The IRS recently interpreted this statutory definition as including activities seeking to influence the confirmation by the U.S. Senate of an individual nominated to serve as a Federal judge.	No provision.	The term "exempt function" does not include, for purposes of section 527(f), the function of influencing or attempting to influence the nomination or appointment of an individual to any Federal, State, or local nonelective public office. As a result, a section 501(c) exempt organization could make expenditures for such purpose without triggering tax under section 527. The provision does not modify existing limitations on political campaign activities applicable to various types of section 501(c) organizations, such as the prohibition on political campaign activities by section 501(c)(3) charitable organizations, or existing limitations on lobbying activities of such organizations. Also, the provision does not affect the definition of lobbying for purposes of such limitations. Effective date.--Date of enactment.
5. Discharge of indebtedness income of rural mutual or cooperative utility companies (sec. 386 of the House bill and sec. 707 of the Senate amendment)	Under present law, a mutual or cooperative telephone, electric or water company qualifies for exemption from Federal income tax if at least 85 percent of its gross income consists of amounts collected from members for the sole purpose of meeting losses and expenses of providing service to its members. Gross income of a taxpayer generally includes income from discharge of indebtedness.	The 85-percent test would be determined without regard to any discharge of indebtedness income arising in 1987, 1988, or 1989 on debt that either originated with, or is guaranteed by, the Federal Government. Effective date.--Applies to discharge of indebtedness income realized after December 31, 1986, and before January 1, 1990.	The 85-percent test would be determined without regard to any discharge of handedness income arising pursuant to sales of indebtedness under section 1001 of the Budget Reconciliation Act of 1986. Effective date.--Applies to sales before, on, or after the date of enactment.

Item	Present Law	House Bill	Senate Amendment
J. Taxpayer Bill of Rights			
1. Disclosure of rights of taxpayers (sec. 764 of the Senate amendment)	There is no statutory requirement that the IRS provide a written explanation of the rights of the taxpayer and the obligations of the IRS during the tax dispute resolution process.	No provision.	Requires the IRS, when it contacts a taxpayer concerning the determination or collection of any tax, to provide a written statement of the rights of the taxpayer and the obligations of the IRS during the audit, appeals, refund, and collection processes. **Effective date.**--The statement must be prepared within 180 days of enactment.
2. Procedures involving taxpayer interviews (sec. 765 of the Senate amendment)			
(a) **Reasonable time and place**	(a) The Code provides that the IRS shall select a reasonable time and place for an examination of a taxpayer. No regulations have been promulgated elaborating on this provision.	No provision.	(a) Requires that regulations be published enumerating standards for determining whether the selection of a time and place for interviewing a taxpayer is reasonable. **Effective date.**--The regulations must be published within one year of enactment.
(b) **Recordings**	(b) No statutory provisions govern recordings of IRS interviews, although the IRS generally permits a taxpayer to make an audio recording of an interview if prior notice to the IRS is given.	No provision.	(b) Provides that a taxpayer may make an audio recording of an in-person interview at the taxpayer's own expense. **Effective date.**--Interviews conducted on or after 30 days after enactment.
(c) **IRS explanation prior to interview**	(c) The IRS has a general practice of providing written explanatory materials to taxpayers in advance of the initial audit interview.	No provision.	(c) Requires that, prior to initial audit and collection interviews, the IRS explain the audit or collection process and taxpayers' rights under that process. **Effective date.**--Interviews conducted on or after 30 days after enactment.

Item	Present Law	House Bill	Senate Amendment
(d) Taxpayer representatives	(d) The IRS provides that, if a power of attorney has been executed properly in favor of a person eligible to practice before the IRS, the taxpayer is entitled to representation by that person during all stages of the administrative process.	No provision.	(d) Provides in the Code that a taxpayer may be represented during an interview by any person currently permitted to represent the taxpayer before the IRS. If a taxpayer clearly states during an interview that he or she wishes to consult with a representative, the interview must be suspended to afford the taxpayer a reasonable opportunity to consult with the representative. Absent an administrative summons, a taxpayer cannot be required to accompany the representative to an interview. The IRS may continue to request that taxpayers voluntarily attend interviews. Effective date.--Interviews conducted on or after 30 days after enactment.
3. Advice of the IRS (sec. 766 of the Senate amendment)	The IRS administratively may abate some penalties in a variety of circumstances.	No provision.	Requires the IRS to abate any portion of any penalty that is attributable to erroneous written advice furnished by the IRS to a taxpayer, where such advice specifically was requested in writing by the taxpayer and reasonably relied upon, unless the taxpayer failed to provide accurate information when requesting the advice. Effective date.--Advice requested on or after the date of enactment.
4. Taxpayer assistance orders (sec. 767 of the Senate amendment)	The Taxpayer Ombudsman administers the IRS problem resolution program, which is designed to resolve a wide range of tax administration problems that are not remedied through normal administrative channels.	No provision.	Provides statutory authority for the Taxpayer Ombudsman to issue a taxpayer assistance order if, in the determination of the Ombudsman, the taxpayer is suffering or about to suffer significant harm as a result of IRS action. The taxpayer assistance order may require remedial action, such as release from levy of property of the taxpayer, and is binding on the IRS unless reversed by a district director or his superiors. Effective date.--Date of enactment. Regulations must be issued within 90 days of enactment.

Item	Present Law	House Bill	Senate Amendment
5. Office of Inspector General (sec. 768 of the Senate amendment)	The Treasury Department has a nonstatutory Inspector General with internal audit and investigative responsibilities for the Department, except for its four law enforcement agencies: IRS, Secret Service, Customs Service, and the Bureau of Alcohol, Tobacco, and Firearms. These functions are performed at the IRS by the Inspection Division, which reports directly to the IRS Commissioner.	No provision.	Establishes a statutory Inspector General within the IRS, and establishes a separate Inspector General within the Treasury Department with oversight responsibility over all other agencies within the Department. Effective date.--Date of enactment.
6. Evaluation of IRS employees (sec. 769 of the Senate amendment)	An IRS Policy Statement prohibits the use of production quotas or goals based upon sums collected to evaluate IRS enforcement officers, appeals officers, and reviewers.	No provision.	Prohibits the IRS from using records of tax enforcement results to evaluate enforcement officers, appeals officers, and reviewers, and from imposing or suggesting production quotas or goals. Effective date.--Evaluations conducted on or after enactment.
7. Procedures relating to IRS regulations (sec. 770 of the Senate amendment)	The IRS publishes all regulations in the Federal Register. Before final regulations are promulgated, proposed regulations are issued and comments are invited from the public and Government agencies. The IRS also issues some regulations as temporary regulations, which generally are effective upon publication and remain in effect until replaced by final regulations.	No provision.	Requires the IRS to solicit comments from the Small Business Administration (SBA) after the publication of proposed regulations or before the promulgation of final regulations. The SBA is allowed four weeks to provide its comments on the impact of the regulations on small businesses. Each time the IRS issues temporary regulations, it is required to issue simultaneously those regulations in proposed form. Temporary regulations are permitted to remain in effect for no more than two years after issuance. Effective date.--Regulations issued after enactment.

Item	Present Law	House Bill	Senate Amendment
8. Content of tax due and deficiency notices (sec. 771 of the Senate amendment)	Although the IRS generally explains the basis of a tax deficiency in a statutory notice, it is not required to explain the basis for assessing penalties.	No provision.	Requires that all tax due notices or deficiency notices contain both a description of the basis for and an identification of the amounts (if any) of tax due, interest, and penalties. **Effective date**:--Mailings made after 180 days after enactment.
9. Installment payment of tax liability (sec. 772 of the Senate amendment)	The IRS is not required to enter into installment payment agreements with taxpayers, but generally does so if a taxpayer who is unable to pay the delinquency in full is able to make payments on the delinquent taxes and pay current taxes as they become due.	No provision.	Provides the IRS with statutory authority to enter into a written installment payment agreement if it determines that such agreement will facilitate collection of tax. The IRS is provided authority to modify or terminate an installment payment agreement if the IRS determines that the taxpayer provided inaccurate or incomplete information to the IRS, collection of tax is in jeopardy, the taxpayer fails to pay an installment when due or fails to pay any other tax liability, or the financial condition of the taxpayer has significantly changed and if notice is given to the taxpayer at least 30 days prior to the date of action. **Effective date**.--Installment agreements entered into after enactment.
10. Assistant Commissioner for Taxpayer Services (sec. 773 of the Senate amendment)	There is currently within the IRS an Assistant Commissioner (Taxpayer Services and Returns Processing). This position is not provided by statute.	No provision.	Establishes statutorily an Assistant Commissioner for Taxpayer Services, who (jointly with the Taxpayer Ombudsman) must report annually to Congress concerning the quality of taxpayer services provided by the IRS. **Effective date**.--Date of enactment.

Item	Present Law	House Bill	Senate Amendment
11. Levy and distraint (sec. 774 of the Senate amendment)			
(a) Notice of intent to levy	(a) At least 10 days before collecting a tax by levy (i.e., seizure of the taxpayer's property) the IRS must give the taxpayer written notice of its intent to levy. If the IRS finds that collection of tax is in jeopardy, it may collect the tax by levy without providing notice or waiting 10 days.	(a) No provision.	(a) Extends to 30 days the required period between the IRS providing written notice to a taxpayer and the collection of tax by levy. As under present law, the notice and waiting period requirements do not apply if the IRS finds that collection of the tax is in jeopardy. The notice preceding levy must contain a description of Code provisions and administrative procedures applicable to specific aspects of collection.
(b) Property subject to levy	(b) Property subject to levy includes any property (or rights to property being held by others) belonging to the taxpayer, except property specifically excluded from levy by law, which includes: (1) fuel, provisions, furniture, and personal household effects, not exceeding $1,500 in aggregate value; and (2) books and tools necessary for the trade, business, or profession of the taxpayer, not exceeding $1,000 in aggregate value.	No provision.	(b) Expands the types of property exempt from levy by: (1) indexing for inflation in 1989 and 1990 the $1,500 exemption amount for fuel, provisions, furniture, and personal household effects; (2) indexing for inflation in 1989 and 1990 the $1,000 exemption amount for books and tools necessary for the trade, business, or profession of the taxpayer; (3) exempting from levy taxpayer's principal residence and personal property essential to the taxpayer's trade or business, unless an IRS district director or assistant district director personally approves the levy in writing or the collection of tax is found to be in jeopardy; and

Item	Present Law	House Bill	Senate Amendment
			(4) prohibiting levies in cases where the estimated expenses of levy and sale exceed the fair market value of the property. No levy is permitted with respect to taxpayer's property on any day on which the taxpayer is required to respond to a summons issued by the IRS, unless collection of tax is in jeopardy. Banks and other financial institutions are required to hold accounts garnished by the IRS for 21 days after receiving the IRS notice of levy, in order to give taxpayers an opportunity to notify the IRS of errors with respect to seizures.
(c) **Levy on wages**	(c) The IRS may instruct the taxpayer's employer to pay to the IRS amounts payable to the taxpayer as salary or wages, except (1) so much of the wages or salary of the taxpayer as is necessary to comply with a prior judgment of a court for support of taxpayer's minor children, and (2) a minimum amount of wages, salary, or other income (in general, $75 per week plus $25 per week for each dependent).	No provision.	(c) Exempts from levy salary or wages for each week in an amount equal to taxpayer's standard deduction and personal exemptions allowable for the taxable year in which the levy occurs, divided by 52.
(d) **Release of levy**	(d) The IRS has authority to release a levy if it determines that this will facilitate the collection of tax.	No provision.	(d) Provides that the IRS must release a levy on property if (1) the liability for which the levy was made is satisfied, (2) the IRS determines that release will facilitate the collection of the liability, (3) an installment payment agreement has been executed with respect to such liability, (4) the IRS has determined that the levy is creating an economic hardship due to the taxpayer's financial condition, or (5) the fair market value of the property exceeds the liability and partial release would not hinder collection of the tax and related costs owed to the IRS. **Effective date**.--Levies issued 90 days after enactment.

Item	Present Law	House Bill	Senate Amendment
12. Review of jeopardy levy and assessment procedures (sec. 775 of the Senate amendment)	The Code provides special rules relating to administrative review and judicial review (by Federal district courts) of jeopardy assessments. These rules do not apply to jeopardy levies.	No provision.	The Tax Court is given jurisdiction concurrent with Federal district court with respect to the challenges to a jeopardy assessment or jeopardy levy if the taxpayer has filed a petition with the Tax Court prior to the making of the assessment or levy with respect to any deficiency covered by the jeopardy assessment or jeopardy levy notice. Effective date.--Jeopardy levies issued and jeopardy assessments made after enactment.
13. Administrative appeal of liens (sec. 776 of the Senate amendment)	Although a taxpayer can obtain a review within the IRS of an initial determination of tax deficiency, there is no statutory procedure for the administrative appeal of IRS decisions concerning the collection of a tax liability.	No provision.	Requires the IRS to promulgate regulations that provide taxpayers with an administrative procedure to obtain review of the filing of a notice of lien in the public record and an opportunity to petition for the release of such lien. If filing of a notice of lien was erroneous, the IRS must release the lien and state that the lien was erroneous. Effective date.--Regulations must be issued within 180 days after enactment.

Item	Present Law	House Bill	Senate Amendment
14. Awarding of costs and certain fees in administrative and court proceedings (sec. 777 of the Senate amendment)			
(a) Recoverable costs	(a) A taxpayer who is a prevailing party in a tax case in any Federal court may be awarded reasonable litigation costs if the position of the United States was not substantially justified, but costs incurred during the IRS administrative process generally are not recoverable.	No provision.	(a) Provides that a taxpayer who substantially prevails in any tax case brought by or against the United States may be awarded reasonable litigation costs incurred in connection with any court proceeding and reasonable administrative costs incurred before the IRS, but only if such administrative costs were incurred after the earlier of (1) the date of the first notice of proposed deficiency that allows the person an opportunity for administrative review in the IRS Office of Appeals, or (2) the date of the notice of deficiency.
(b) Burden of proof	(b) To be awarded reasonable litigation costs, the taxpayer must establish that the position of the Government in the case was not substantially justified.		(b) Shifts the burden of proof to the Government to establish that its position was substantially justified in order to prevent a prevailing taxpayer from recovering costs.
(c) Position of the United States	(c) In determining whether the position of the United States was substantially justified, the position is determined beginning with the position in the civil proceeding, or, if applicable, the position taken by the IRS district counsel administratively. This generally does not include positions taken in the audit or appeals process.	No provision.No provision.	(c) Provides that in determining whether the position of the United States was substantially justified, the position of the United States is any position taken after the later of (1) the date of the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the IRS Appeals Office, or (2) the date by which the relevant evidence under the control of the taxpayer, as well as relevant legal arguments, with respect to such action have been presented by the taxpayer to IRS examination or Service Center personnel.
(d) Administrative settlement of claims for litigation costs	(d) The Code does not give explicit authority to the IRS to settle administratively claims for litigation costs prior to the commencement of the civil action.	(d) No provision.	(d) Provides the IRS with authority to settle claims for recovery of costs incurred in administrative and judicial proceedings. Administrative decisions concerning such costs would be appealable to the Tax Court. Effective date.--Proceedings commenced after enactment.

Item	Present Law	House Bill	Senate Amendment
15. Civil cause of action for damages due to failure to release lien (sec. 778 of the Senate amendment)	The Code does not grant taxpayers a right to bring an action for damages resulting from the wrongful failure to remove a lien on a taxpayer's property.	No provision.	Provides taxpayers with the right to sue the Federal Government in Federal district court or Tax Court if any IRS employee knowingly or negligently fails to release a lien on the taxpayer's property as required under the Code. Taxpayers would be permitted to recover the costs of the action and damages equal to the greater of (1) the actual direct economic damages sustained by the taxpayer which, but for the actions of the IRS, would not have been sustained, or (2) $100 per day (up to $1,000) for each day the failure continues during the period that begins ten days after the taxpayer provides written notice to the IRS of the failure to release the lien. Effective date.--Taxpayer notices provided and damages arising after enactment.
16. Civil cause of action for damages sustained due to unreasonable actions by IRS (sec. 779 of the Senate amendment)	Taxpayers do not have a specific right to sue the Government for damages sustained due to unreasonable actions taken by an IRS employee.	No provision.	Grants taxpayers the right to sue the Federal Government in Federal district court or Tax Court for damages if in connection with the determination or collection of any Federal tax, an IRS employee carelessly, recklessly, or intentionally disregards any provision of Federal law or any regulation promulgated under the Internal Revenue Code. The taxpayer may recover the costs of the action plus actual direct economic damages sustained by the taxpayer as a proximate result of the unlawful actions or inaction of the IRS employee. Effective date.--Actions occurring after enactment.

Item	Present Law	House Bill	Senate Amendment
17. Jurisdiction to restrain certain premature assessments (sec. 780 of the Senate amendment)	Jurisdiction to restrain IRS assessment and collection of tax rests solely with the Federal district courts. Consequently, even though as a general rule no assessment or collection of tax may be made until the decision of the Tax Court has become final, a taxpayer with a case before the Tax Court who is faced with a premature IRS assessment is forced to challenge that assessment in Federal district court.	No provision.	Grants the Tax Court jurisdiction (concurrent with Federal district courts) to restrain the assessment and collection of any tax by the IRS if the tax is the subject of a timely filed petition pending before the Tax Court. Effective date.--Orders entered into after enactment.
18. Jurisdiction to enforce overpayment determinations (sec. 781 of the Senate amendment)	The Tax Court has jurisdiction to determine an overpayment in respect of a tax for which the IRS has asserted a deficiency. However, if the IRS fails to refund or credit an overpayment determined by the Tax Court, the taxpayer must seek relief in another forum.	No provision.	Grants the Tax Court jurisdiction to order the refund of an overpayment plus interest if, within 120 days after a Tax Court decision has become final, the IRS fails to refund to a taxpayer an overpayment determined by the Tax Court. In addition, if the IRS fails to establish that its delay was substantially justified, then the taxpayer is entitled to interest on the overpayment at an increased rate and to reasonable litigation costs. Effective date.--Overpayments determined by the Tax Court that have not been refunded by the 90th day after enactment.

Item	Present Law	House Bill	Senate Amendment
19. Jurisdiction to review certain sales of seized property (sec. 782 of the Senate amendment)	If a taxpayer fails to pay a tax on notice and demand after the IRS makes a jeopardy assessment, a lien arises in favor of the United States upon property belonging to the taxpayer and the IRS immediately can seize the taxpayer's property. Pending issuance of a notice of deficiency, and, if the taxpayer challenges the assessment in either the Tax Court or Federal district court, pending the decision of such court, the IRS cannot sell property seized pursuant to a jeopardy assessment, unless (1) the taxpayer consents to the sale, (2) the IRS determines that the expenses of conservation and maintenance greatly will reduce the net proceeds, or (3) the property is liable to perish or become greatly reduced in value by keeping, or cannot be kept without great expense. If the taxpayer wishes to contest an IRS determination to sell seized property, the only recourse is to bring suit in Federal district court.	No provision.	Grants the Tax Court jurisdiction during the pendency of proceedings before it to review the IRS' determination to sell property seized pursuant to a jeopardy assessment. Effective date.--90 days after enactment.
20. Jurisdiction to redetermine interest on deficiencies (sec. 783 of the Senate amendment)	Following a decision by the Tax Court, the IRS assesses the entire amount redetermined as the deficiency by the Tax Court and adds to that interest computed at the statutory rate. If the taxpayer disagrees with the IRS' interest computation, however, the Tax Court does not have jurisdiction to resolve that dispute.	No provision.	Provides that if a dispute arises over the IRS' computation of the interest due on a deficiency, then the taxpayer will have one year from the date the Tax Court decision became final in which to move to reopen the Tax Court proceeding for a determination of interest due. The taxpayer must first pay the entire deficiency redetermined by the Tax Court and the interest determined by the IRS. Effective date.--Assessments after enactment.

Item	Present Law	House Bill	Senate Amendment
21. Jurisdiction to modify decisions in certain estate tax cases (sec. 784 of the Senate amendment)	Certain estates that consist largely of an interest in a closely held business may elect to pay Federal estate tax over an extended-payment period. If such an election is made, the amount of the estate tax deduction for interest to which an estate is entitled cannot be determined until the interest is paid, and the Tax Court may not enter a final judgment in the case until the extended-payment period has expired.	No provision.	Provides the Tax Court authority to enter a final decision in an estate tax case in which an extended-payment period is elected and subsequently, if necessary, to modify the decision at the end of the extended-payment period to reflect interest actually paid by the estate. Effective date.--Tax Court cases for which the decision is not final on the date of enactment.
22. Refund jurisdiction for the Tax Court (sec. 785 of the Senate amendment)	The Tax Court has no jurisdiction to determine whether a taxpayer has made an overpayment except in the context of a deficiency proceeding. If the IRS rejects a taxpayer's refund claim, or does not act within six months, then the taxpayer may bring an action for refund in Federal district court or the United States Claims Court, but not in the Tax Court.	No provision.	The provision would grant the Tax Court jurisdiction over tax refund actions against the IRS where there already is pending and awaiting submission for disposition by a judge a deficiency action in the Tax Court, and where the issue in the refund action is related by subject matter to the deficiency action or the result in either of the two actions will affect the amount in controversy in the related action. All proceedings in the Tax Court would be stayed for 180 days if a refund action is filed in the Tax Court and there is a showing by the IRS that there has been no audit of the taxpayer's return for the period or type of tax involved in the refund action. The general prerequisites governing the commencement of tax refund actions would apply to refund actions filed in the Tax Court. A taxpayer continues to have the option of filing a claim for refund in the appropriate Federal district court or the United States Claims Court. Effective date.--Proceedings commenced in the Tax Court six months after enactment.

Item	Present Law	House Bill	Senate Amendment
K. Other Administrative Provisions			
1. Tip reporting (House bill)	Employers are required, under certain circumstances, to provide an information report of an allocation of tips in large food or beverage establishments (defined generally to include those establishments that normally employ more than 10 employees). Under this provision, if tipped employees of large food or beverage establishments report tips aggregating 8 percent or more of the gross receipts of the establishment, then no reporting of a tip allocation is required. However, if this 8-percent reporting threshold is not met, the employer must allocate (as tips for information reporting purposes) an amount equal to the difference between 8 percent of gross receipts and the aggregate amount reported by employees. This allocation may be made pursuant to an agreement between the employer and employees or, in the absence of such an agreement, according to Treasury regulations. These Treasury regulations provide that this allocation may be made by the employer in either of two ways. One is to allocate based on the portion of the gross receipts of the establishment attributable to the employee during a payroll period. The second is to allocate based on the portion of the total number of hours worked in the establishment attributable to the employee during a payroll period. The method of tip allocation based on the number of hours worked may be utilized only by an establishment that employs less than the equivalent of 25 full-time employees during a payroll period. Establishments employing the equivalent of 25 or more full-time employees consequently have to use the portion of gross receipts method to allocate tips during the payroll period (absent an agreement between the employer and employees).	The committee report states that some establishments that employ the equivalent of 25 or more full-time employees are not observing this law and encourages them to do so.	No provision.

Item	Present Law	House Bill	Senate Amendment
2. Provisions relating to previously required studies (sec. 393 of the House bill)	Present law requires Treasury to prepare and submit to Congress many one-time and periodic studies on specific tax issues. Treasury is required to provide reports every second tax year on possessions corporations and on foreign sales corporations.	Deletes the requirement that Treasury prepare studies of the payment-in-kind program, the foreign oil and gas tax credit provisions, and the accounting methods for inventory. Modifies the timing of the studies on possessions corporations and on foreign sales corporations so that they would be required on every fourth tax year. Effective date. Date of enactment.	No provision.
3. Repeal of Treasury authority to prescribe class lives (sec. 798 of the Senate amendment)	Depreciation recovery periods are generally determined by reference to ADR class lives. An office in the Treasury Department monitors and analyzes the actual experience of depreciable assets and reports the findings to the Secretary. The Treasury Department generally has the authority to establish or change the class lives of depreciable assets, except for certain assets which may not have their lives lengthened before January 1, 1992.	No provision.	The Secretary's authority to lengthen the depreciable life of an asset is revoked. The Treasury is expected to study and report to Congress on its findings concerning the actual experience of depreciable assets. Effective date.--Date of enactment.
4. Repeal of reporting requirements for windfall profit tax (sec. 208 of the Senate amendment)	The crude oil windfall profit tax was repealed for oil removed on or after August 23, 1988 (P.L.100-418).	No provision.	Repeals the reporting requirements for crude oil removed after December 31, 1987, for which no windfall profit tax is due or withheld. (Floor amendment by Sen. Nickles, adopted by voice vote.) Effective date.--Date of enactment.

Item	Present Law	House Bill	Senate Amendment
L. Corporate/Personal Holding Company Provisions **1. Authority to pay refunds to fiduciary of insolvent member of affiliated groups (sec. 385 of the House bill)**	Treasury regulations generally require a refund attributable to losses of any member of an affiliated group filing a consolidated return to be paid by the Internal Revenue Service to the parent corporation.	The Secretary of the Treasury is authorized to provide access to tax refunds to a statutory or court appointed fiduciary of an insolvent member of a group of corporations filing a consolidated tax return, to the extent the Secretary determines that the refund is properly attributable to the losses of such insolvent member and that such access is consistent with the purposes of the consolidated return provisions. **Effective date.**--Effective for pending or future statutory or court appointed fiduciary situations, in accordance with Treasury regulations.	No provision.
2. Certain ownership changes not counted during bankruptcy (sec. 741 of the Senate amendment)	Net operating loss limitations of the Tax Reform Act of 1986 do not apply to an ownership change resulting from certain bankruptcy reorganizations or proceedings if a petition in the case was filed with a court before August 14, 1986. When stock of a corporation is acquired during the pendency of a bankruptcy, an ownership change may occur and losses may be limited.	No provision.	Under regulations to be prescribed by the Treasury, if any stock that was acquired by shareholders during a bankruptcy proceeding in a transaction that triggered an ownership change does not represent more than 50 percent of the value of the corporation (based on the value of the stock immediately after the completion of the bankruptcy proceeding), an amended return can generally be filed with respect to prior years for which losses were limited (without regard to the otherwise applicable statute of limitations). **Effective date.**--Effective as if included in the 1986 Act.
3. Application of Code sec. 7503 for purposes of Woods Investment Co. effective date (sec. 388 of the House bill)	Where the last day required by the tax laws to perform an act is a Saturday, Sunday or legal holiday, the act will be considered timely if it is performed on the next day that is not a Saturday, Sunday or legal holiday. It is not clear whether or to what extent this provision applies to the requirement that the disposition required for transition relief from the provision in the Revenue Act of 1987 which reverses the result in Woods Investment Co. must occur prior to January 1, 1989.	For purposes of transition relief from the provision which reverses the result in Woods Investment Co., a disposition is treated as if it occurred on December 31, 1988, if it occurs on the next day following December 31, 1988, that is not a Saturday, Sunday or legal holiday. **Effective date.**--Effective as if included in the 1987 Act.	No provision.

Item	Present Law	House Bill	Senate Amendment
4. Application of rules on personal holding company income to broker-dealers (sec. 743 of the Senate amendment)	Personal holding company income of a broker-dealer includes interest income.	No provision.	The definition of personal holding company income is modified to exclude interest received by broker-dealers with respect to: (1) any securities or money market instruments held as inventory; (2) margin accounts; or (3) any financing for a customer secured by securities or money market instruments. Effective date.--Effective with respect to interest received after the date of enactment.
5. Elimination of dividends received from banks from personal holding company income of bank holding companies (sec. 392 of the House bill)	Personal holding company income of a bank holding company includes dividends paid by subsidiary banks, unless the bank holding company owns 80 percent or more of the stock of the subsidiary bank.	The definition of personal holding company income of a personal holding company which is a bank holding company is modified to exclude up to $3 million per year of dividends received from a bank if the bank holding company (1) owns at least 25 percent of the bank's stock and (2) the value of the stock in such banks has a value equal to 80 percent or more of the total value of the assets of the holding company. Effective date.--Effective with respect to dividends received by a bank holding company in its taxable years ending in 1989 and 1990.	No provision.

Item	Present Law	House Bill	Senate Amendment
6. Substantiation of certain charitable contributions of inventory property by corporations (sec. 800E of the Senate amendment)	Under the Tax Reform Act of 1984, individuals, closely held corporations, and personal service corporations generally must obtain qualified appraisals meeting specified requirements in order to claim a charitable deduction exceeding $5,000 for certain contributions of property. The IRS recently announced that less stringent appraisal requirements would apply to donations by regular corporations of inventory property to be used for care of the ill, the needy, or infants, such as contributions of food by a food retailer to organizations aiding the homeless.	No provision.	The Treasury Department is authorized to prescribe regulations allowing corporations (other than S corporations) to provide less detailed substantiation than that required under the present-law qualified appraisal rule for charitable contributions of inventory property to be used for care of the ill, the needy, or infants (as described in Code sec. 170(e)(3)(A)). Effective date.--Contributions made after the date of enactment.
7. Relief from recognition of corporate level gain involving transfer of residential cooperative units (sec. 800I of the Senate amendment)	Gain is recognized to a residential housing cooperative when appreciated property is distributed to tenant-stockholders.	No provision.	No gain or loss is recognized to a residential housing cooperative when property that qualifies as a principal residence is distributed to a tenant-stockholder in exchange for the tenant-stockholder's stock, to the extent the exchange qualifies for nonrecognition at the shareholder level under section 1034 of the Code. Effective date.--Effective as if included in the 1986 Act.
M. Miscellaneous Provisions **1. Bad debt reserve exception for small banks (sec. 742 of the Senate amendment)**	A large bank is not allowed a deduction for an addition to a reserve for bad debts. A bank is a large bank if, for the taxable year, or any preceding taxable year beginning after December 31, 1986, the bank (or the parent-subsidiary controlled group of which it was a member) exceeds a certain size.	No provision.	If a bank which is a member of an affiliated group is sold to persons who did not, directly or indirectly, own any interest in any member of the affiliated group, the determination of whether a bank is a large bank for this purpose would be made without regard to the size of the bank before such sale. Effective date.--Effective as if included in the 1986 Act
2. Certain discharge of debt income not included in book income (sec. 391 of the House bill)	The alternative minimum taxable income of a corporation is increased by one-half of the excess of pre-tax book income over other alternative minimum taxable income for taxable years beginning in 1987, 1988, and 1989.	The transfer of a corporation's own stock in exchange for the corporation's debt in a Title 11 case (or to the extent the corporation is insolvent) does not give rise to adjusted net book income. Effective date.--Taxable years beginning after December 31, 1986.	No provision.

Item	Present Law	House Bill	Senate Amendment
3. Carryover of nonconventional fuels credit under the minimum tax (sec. 750 of the Senate amendment)	The nonconventional fuels credit cannot reduce the taxpayer's tax liability to less than the amount of the minimum tax. Carryovers of unused credits are not allowed.	No provision.	The minimum tax credit allowable in future years is increased by the amount of the nonconventional fuels credit not allowed for the taxable year solely by reason of the limitation based on the taxpayer's tentative minimum tax. Effective date.--Taxable years beginning after December 31, 1986.
4. Treatment of certain corporations that are engaged in the sale of residential lots and timeshares for purposes of the alternative minimum tax (Senate amendment)	For taxable years beginning in 1987, 1988, and 1989, the alternative minimum taxable income of a corporation is increased by 50 percent of the excess of the adjusted net book income of the corporation over the alternative minimum taxable income (determined before application of the book income adjustment). For taxable years beginning after 1989, the alternative minimum taxable income of a corporation is increased by 75 percent of the excess of the adjusted current earnings of the corporation over the alternative minimum taxable income (determined before application of the adjusted current earnings provision). In determining adjusted current earnings, the installment method may not be used.	No provision.	For taxable years beginning after 1989, the book income adjustment (rather than the adjusted current earnings provision) under the corporate alternative minimum tax applies to any corporation that elected before October 11, 1988, to use the installment method to report gain from certain sales of residential lots or timeshares and to pay interest on the tax that is deferred under the installment method. (Floor amendment by Sen. Gramham, adopted by voice vote.) Effective date.--Taxable years beginning after 1989 (the effective date of the adjusted current earnings provision).
5. Exemption of certain religious schools from Federal unemployment tax (sec. of the Senate amendment)	The Internal Revenue Code exempts from mandatory participation with Federal unemployment insurance program (FUTA) individuals in the employ of (1) a church, or convention, or association of churches or (2) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches. Thus, a church or church-run school is not required to pay FUTA taxes but instead may voluntarily elect State coverage.	No provision.	The provision amends the Internal Revenue Code to provide another exception from mandatory participation for service performed in the employ of an elementary or secondary school which meets certain requirements. To qualify for such exemption the elementary or secondary school must be: (1) operated primarily for religious purposes, (2) described in section 501(c)(3), and (3) exempt from tax under section 501(a). Floor amendment by Senator Thurmond, adopted by voice vote.) Effective date.--The provision applies to services performed after December 31, 1988.
6. Resolution relating to deductibility of adoption expenses	Present law does not allow a tax deduction for adoption fees, court costs, attorney fees, or similar expenditures incurred in the adoption of a child. The Tax Reform Act of 1986 repealed a provision that had allowed an itemized deduction for up to $1,500 in such expenses incurred by an individual in the legal adoption of a child with special needs.	No provision.	The Senate amendment includes a sense of the Senate resolution stating that consideration should be given to providing a tax deduction for qualified adoption expenses in order to encourage and facilitate adoptions.

Item	Present Law	House Bill	Senate Amendment
7. **Status of certain dependent care providers (Senate amendment)**	In general, the determination of whether an employer-employee relationship exists for Federal tax purposes is made under a common law test. Under this test, an employer-employee relationship generally exists if the person contracting for services has the right to control not only the result of the services, but also the means by which that result is accomplished.	No provision.	The Federal government, any State or political subdivision, the District of Columbia, or any agency or instrumentality of the foregoing may treat a person who renders dependent care or similar services as other than an employee for employment tax purposes if the following conditions are satisfied: (1) The person does not provide any dependent care or similar services in any facility owned or operated by the governmental entity; (2) The person is compensated by the governmental entity for such services, directly or indirectly, out of funds provided pursuant to Chapter 7 of Title 42 of the United States Code, or the provisions and amendments made by the Family Security Act of 1988; (3) The governmental entity does not treat the person as an employee for employment tax purposes; (4) The governmental entity files all Federal income tax returns (including information returns) required to be filed with respect to such person on a basis consistent with the treatment of such person as other than an employee; and (5) No more than ten percent of the employees of the governmental entity are provided with insurance under Title II of the Social Security Act pursuant to voluntary agreements with the Secretary of Health and Human Services under section 218 of such Title. The provision applies to the period beginning on January 1, 1984, and ending on December 31, 1990. The Secretary of Treasury shall report to the Senate Committee on Finance and the House Committee on Ways & Means on the tax status of day care providers compensated pursuant to the programs described above no later than December 31, 1989. Effective date.--Date of enactment.

Item	Present Law	House Bill	Senate Amendment
N. **Trade Provisions**			
1. **Change in due date of GAO trade study (sec. 734 of the Senate amendment)**	The Omnibus Trade and Competiveness Act of 1988 requires the General Accounting Office (GAO) to complete a study of four aspects of the Small Business Innovation Research Program by December 31, 1988.	No provision.	Extends the due date for completion of the GAO study for six months, or until July 1, 1989. Effective date.--Date of enactment.
2. **Limitation on CBI ethanol imports (sec. 761 of the Senate amendment)**	The Omnibus Trade and Competiveness Act of 1988 permits five companies to import 20 million gallons each of ethanol that does not meet the rules of origin of the Caribbean Basin Recovery Act, as amended, in that the ethanol dehydrated in those plants is not fermented from vegetable matter grown in the region at plants located in the region.	No provision.	This Trade Act provision would be barred after enactment of this bill until the Secretaries of Agriculture, Energy, and the Treasury, acting jointly, certify that the domestic ethanol industry is not fully meeting domestic demand for ethyl alcohol and that imported ethanol is necessary to maintain adequate supplies for consumers. Effective date.--Date of enactment.
3. **Calculation of relative values for operations of petroleum refineries in a foreign trade zone (Senate amendment)**	Section 3 of the Foreign Trade Zones Act, 19 U.S.C. 81(c), provides that when two or more products result from the manipulation or manufacture of merchandise in a foreign trade zone, the liquidated duties or taxes levied on those products are to be distributed according to each product's relative value at the time of separation.	No provision.	Amends the Foreign Trade Zones Act to define the time of separation to be the entire manufacturing period; to define the price of the products, for purposes of computing relative values, as the average per unit value of each product for the manufacturing period; and, with regard to feedstocks for petroleum manufacturing, definition and attribution of products may be either in accordance with Industry Standards of Potential Production on a Practical Operating Basis or any other inventory control method approved by the Secretary of the Treasury. Effective date.--Date of enactment.

Item	Present Law	House Bill	Senate Amendment
4. Trade Act technicals (sec. 800V of the Senate amendment)	The Omnibus Trade and Competitiveness Act of 1988 extensively amended various U.S. laws relating to international trade.	No provision.	Makes a number of amendments to the Omnibus Trade Act and trade laws amended by that Act to correct technical drafting errors. Effective date.--Effective as if included in the 1988 Trade Act.
5. Iraqi trade sanctions (Senate amendment)	No provision.	No provision.	Imposes restrictions on trade with Iraq. Requires the President, not later than December 31, 1988, to impose additional sanctions (denial of access to Export-Import Bank, import restrictions, additional export restrictions, and downgrading of diplomatic relations) unless the President certifies that Iraq is not using chemical weapons and has provided assurances that it will not do so in the future. Any sanctions imposed may later be waived based on same grounds as required for Presidential certification.
6. Study of U.S.-Japan trade (sec. 800AA of the Senate Amendment)	No provision.	No provision.	Requires the Secretary of State, Secretary of the Treasury, and the U.S. Trade Representative to conduct jointly a study on possible frameworks for enhanced cooperation between the United States and Japan in the form of economic and security arrangements between the two countries. The final report on the study is to be submitted to the President and the appropriate Congressional committees by July 1, 1989, with an interim report by March 1, 1989.

Item	Present Law	House Bill	Senate Amendment
V. REVENUE-INCREASE PROVISIONS **A. Revenue-Increase Provisions Included in the House Bill and the Senate Amendment** **1. Corporate estimated tax payments (sec. 314 of the House bill and sec. 700 of the Senate amendment)**	Corporations are required to make estimated tax payments four times a year. For small corporations, each installment is required to be based on an amount equal to the lesser of (1) 90 percent of the tax shown on the return, or (2) 100 percent of the tax shown on the preceding year's return. For large corporations, each installment is required to be based on an amount equal to 90 percent of the tax shown on the return (except that the first payment may be based on 100 percent of the tax shown on the preceding year's return). For both large and small corporations, the amount of any payment is not required to exceed an amount which would be due if the total payments for the year up to the required payment equal 90 percent of the tax which would be due if the income already received during the current year were placed on an annual basis. Any reduction in a payment resulting from using this annualization rule must be made up in the subsequent payment if the corporation does not use the annualization rule for that subsequent payment. However, if the subsequent payment makes up at least 90 percent of the earlier shortfall, no penalty is imposed.	A corporation that uses the annualization method for a prior payment must make up the entire shortfall (rather than 90 percent of the shortfall) in the subsequent payment in order to avoid an estimated tax penalty. Effective date.--Estimated tax payments required to be made after December 31, 1988.	Same as the House bill. Effective date.--Estimated tax payments required to be made after September 30, 1988.

Item	Present Law	House Bill	Senate Amendment
2. Treatment of single premium and other investment-oriented life insurance contracts (secs. 313 and 348 of the House bill and sec. 701 of the Senate amendment)	The undistributed investment income earned on premiums credited under a contract that satisfies a statutory definition of life insurance is not subject to current tax to the owner of the contract. Death benefits paid under a life insurance contract are excluded from the gross income of the recipient. Amounts received under a life insurance contract prior to the death of the insured generally are not includible in gross income to the extent the amount received does not exceed the taxpayer's investment in the contract. Amounts borrowed under the contract generally are not treated as received and, consequently, are not includible in gross income.	(a) Distribution rules.--In order to discourage the purchase of life insurance as a tax-sheltered investment vehicle, the bill modifies the treatment of loans and other amounts received under a class of life insurance contracts that are statutorily defined as modified endowment contracts. First, amounts received under modified endowment contracts are treated first as income and then as recovered basis. In addition, loans under modified endowment contracts and loans secured by modified endowment contracts are treated as amounts received under the contract. Finally, an additional 10-percent income tax is imposed on certain amounts received under modified endowment contracts to the extent that the amounts received are includible in gross income.	(a) Distribution rules.--Same as the House bill, except for the following: (i) The assignment or pledge of a modified endowment contract is not treated as an amount received under the contract if the assignment or pledge is solely to cover the payment of burial expenses or prearranged funeral expenses and the policyholder does not receive cash directly or indirectly in connection with the assignment. (ii) Any amount payable or borrowed under a modified endowment contract is not includible in gross income to the extent that the amount is retained by the insurer as a premium or other consideration paid for the contract or as interest or principal paid on a loan under the contract. (iii) For purposes of the distribution rules, the cash surrender value of a modified endowment contract is reduced by the amount of any loan that is treated as received under the contract and the investment in the contract and the cash surrender value of the contract are increased by the amount of payments on a loan to the extent attributable to loans treated as received under the contract. (iv) A contract is considered a modified endowment contract for distributions that occur during the contract year that the contract fails to satisfy the 7-pay test and all subsequent contract years and for distributions that are made in anticipation of the contract failing to satisfy the 7-pay test as determined by the Treasury Department.
		(b) Modified endowment contract defined.--A modified endowment contract is defined as any contract that satisfies the present-law definition of life insurance but fails to satisfy a 7-pay test. In addition, a modified endowment contract includes any life insurance contract that is received in exchange for a modified endowment contract.	(b) Modified endowment contract defined.--Same as the House bill, except for the following: (i) The mortality charges taken into account in computing the 7-pay premiums equal the mortality charges specified in the prevailing commissioners' standard table at the time that the contract is issued or materially changed, except to the extent provided otherwise by the Treasury Department (e.g., with respect to substandard risks).

Item	Present Law	House Bill	Senate Amendment
2. Treatment of single premium and other investment-oriented life insurance contracts--cont.			(ii) In the case of a contract that provides an initial death benefit of $10,000 or less and that requires at least 20 nondecreasing annual premium payments, the amount of the 7-pay premium for each year is increased by an expense charge of $75. (iii) Riders to contracts are considered part of the base insurance contract for purposes of the 7-pay test. (iv) The complete surrender of a life insurance contract during the first 7 years of the contract does not in itself cause the contract to be treated as a modified endowment contract. (v) Any reduction in the benefits under a contract due to the nonpayment of premiums is not taken into account in applying the 7-pay test if the benefits are reinstated within 180 days after the reduction in the benefits. (vi) The amount paid under a contract is reduced by nontaxable distributions to which section 72(e) applies whether or not attributable to a reduction in the originally scheduled death benefit.
		(c) Material change rules.--If there is a material change in the benefits or other terms of a contract that was not reflected in any previous determination under the 7-pay test, (i) the contract is considered a new contract that is subject to the 7-pay test as of the date that the material change takes effect and (ii) adjustments are made in the application of the 7-pay test to take into account the greater of the cash surrender value of the contract or the premiums paid under the contract. A material change includes any increase in the future benefits provided under the contract unless the increase is required to satisfy the statutory definition of life insurance and the increase is attributable to the payment of premiums necessary to fund the lowest death benefit payable in the first 7 contract years or to the crediting of interest or other earnings with respect to such premiums.	(c) Material change rules.--Same as the House bill, except for the following: (i) The rule that a death benefit increase must be required in order to satisfy the statutory definition of life insurance is eliminated. (ii) The definition of necessary premium for guideline premium contracts is modified to allow aggregate premium payments equal to the greater of the guideline single premium or the sum of the guideline level premiums to date (each computed based on the lowest death benefit payable during the first 7 contract years). (iii) A decrease in future benefits under a contract is not consider a material change. (iv) Policyholder dividends are considered other earnings that may increase the death benefit without triggering a material change. (v) The Treasury Department is granted

Item	Present Law	House Bill	Senate Amendment
2. Treatment of single premium and other investment-oriented life insurance contracts--cont.			regulatory authority to provide additional circumstances under which a de minimis death benefit increase is not a material change (e.g., a death benefit increase that is attributable to a reasonable cost of living adjustment determined under an established index specified in the contract). (vi) In the case of a contract that is materially changed, the new 7-pay premium is adjusted to take into account only the cash surrender value of the contract as of the date of the material change.
		(d) Study of life insurance and annuity contracts.--The Secretary of the Treasury and the Comptroller General are each required to conduct a study of (i) the effectiveness of the revised tax treatment of life insurance in preventing the sale of life insurance primarily for investment purposes, and (ii) the policy justification for, and the practical implications of, the present law treatment of earnings on the cash surrender value of life insurance and annuity contracts in light of the reforms made by the Tax Reform Act of 1986. The results of each study, as well as any recommendations that are considered advisable, are required to be submitted to the House Ways and Means Committee and the Senate Finance Committee not later than March 1, 1989.	(d) Study of life insurance and annuity contracts.--No provision.
		Effective date.--Contracts entered into or materially changed on or after June 21, 1988. In determining whether a contract has been materially changed, the rules described above in (c) generally apply.	Effective date.--Contracts entered into on or after June 21, 1988. A contract is considered entered into after June 21, 1988, if (i) on or after that date, one or more of the future benefits under the contract are increased or a qualified additional benefit is increased or added to the contract, and, prior to that date, the owner of the contract did not have a unilateral right under the contract to obtain the increase or addition without providing evidence of insurability, or (ii) the contract is converted from term coverage to other than term coverage after June 20, 1988, without regard to any right of the owner under the contract to obtain such conversion. In addition, a modified endowment contract that is entered into on or after June 21, 1988, and before the date of enactment and that is exchanged within 3 months after the date of enactment for a life insurance contract that satisfies the 7-pay test is not considered a modified endowment contract if gain (if any) is recognized on the exchange.

Item	Present Law	House Bill	Senate Amendment
3. Repeal of special rules allowing loss transfers by Alaska Native Corporations (sec. 315 of the House bill and sec. 702 of the Senate amendment)	For taxable years beginning before 1992, Alaska Native Corporations may file consolidated returns with other corporations under rules more liberal than those generally applicable to other taxpayers and, in addition, no provision or principle of law may be applied to deny the benefit or use of losses or credits of an Alaska Native Corporation by its consolidated group.	The special consolidation rules applicable to Alaska Native Corporations (including the rule prohibiting denial of the use of losses or credits through application of any provision or principle of law) are repealed. Effective date.--Effective for losses and credits arising after April 26, 1988. In addition, losses and credits of an Alaska Native Corporation arising before that date can not be used to offset income assigned (or attributable to property contributed) on or after that date, unless such use is allowable without regard to the special consolidation rules.	Same as the House bill, except that certain special administrative rules relating to IRS audit and judicial proceedings are provided. Effective date.--Same as the House bill, with the following modifications providing transition relief: (1) Certain financially distressed Native Corporations may transfer up to $120 million of losses (or the deduction equivalent of credits) which arise before January 1, 1989 if either (a) such loss (or credit) is used to offset income assigned (or attributable to property contributed) pursuant to a binding contract entered into before July 26, 1988 or (b) the Native Corporation was in bankruptcy on April 26, 1988. (2) Up to $16.4 million of losses (or the deduction equivalent of credits) of an Alaska Native Corporation may offset income assigned (or attributable to property contributed) pursuant to a binding contract entered into before July 26, 1988. (3) If an Alaska Native Corporation has not engaged in any loss transfer transaction prior to April 26, 1988, up to $5 million of losses (or the deduction equivalent of credits) of such Alaska Native Corporation arising on or before December 31, 1988, may be used to offset income assigned (or attributable to property contributed) on or before December 31, 1988. An Alaska Native Corporation may obtain transition relief pursuant to only one of the above transition rules.
4. Update IRS valuation tables (sec. 371 of the House bill and sec. 704 of the Senate amendment)	The IRS publishes tables that are used to value annuities, life estates, terms of years, remainders and reversions. Last published in 1984, these tables assume a 10 percent interest rate and are based on mortality assumptions published in 1969-71. On a monthly basis, the IRS publishes an applicable Federal rate, which is based on the average market yield of obligations of the United States.	The House bill requires that the value of any annuity, interest for life or term of years, remainder or reversionary interest be determined under tables (or formulas) prescribed by the Secretary of the Treasury and by using an interest rate equal to 120 percent of the Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls. The bill also requires that the tables be revised at least once every ten years to reflect the most recent mortality experience. Effective date.--Interests valued after the first date of the sixth calendar month beginning after the date of enactment.	Same as the House bill, except that the interest rate is rounded to the nearest 2/10ths of one percent. In addition, at the taxpayer's election, interests in property are valued by reference to the Federal mid-term rate in effect for either of the two months preceding the valuation date. Effective date.--Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
B. Other Revenue-Increase Provisions **1. Reduction in dividends received deduction for portfolio stock (sec. 311 of the House bill)**	Corporations owning less than 20 percent of the stock of a domestic corporation are entitled to a deduction equal to 70 percent of the dividends received from the corporation. Corporations owning at least 20 percent but less than 80 percent of the stock are entitled to an 80-percent deduction and corporations owning 80 percent or more may be entitled to a 100-percent deduction.	(a) The portfolio dividends received deduction is reduced from 70 percent to 50 percent. (b) The requirement to qualify for an 80 percent dividends received deduction is changed to require ownership of more than 20 percent of the stock of a corporation. (c) For purposes of determining whether the more than 20-percent threshold is met, the ownership of related corporations is aggregated to the same extent that it is aggregated under present law for purposes of the 80-percent threshold. (d) The Treasury Department is directed to conduct a study of the dividends received deduction and provide any recommendations for legislative changes no later than 6 months following the date of enactment. Effective dates.-- (a) The change in the portfolio dividends received deduction is phased in with a 55-percent deduction for dividends received in 1989, a 52-1/2 percent deduction for dividends received in 1990, and a 50-percent deduction for dividends received after December 31, 1990. (b) The change in the threshold for the portfolio dividends received deduction applies to dividends received after December 31, 1988. (c) The change in the aggregation rule applies to dividends received after December 31, 1987.	No provision.

Item	Present Law	House Bill	Senate Amendment
2. Repeal of the completed contract method of accounting for long-term contracts (sec. 312 of the House bill)	Taxpayers engaged in the production of property under a long-term contract must compute income from the contract under either the percentage of completion method or the percentage of completion-capitalized cost method. Under the percentage of completion method, income is reported based on the percentage of the contract that is completed during the year. Under the percentage of completion-capitalized cost method, 70 percent of the items under the contract are reported under the percentage of completion method and the remaining 30 percent are reported under the taxpayer's normal method of accounting (e.g., the completed contract method, under which income is reported in the year the contract is completed). Certain small businesses may use the completed contract method fully with respect to construction contracts that are estimated to be completed within two years. In addition, 40 percent of the items under certain qualified ship contracts may be reported under the percentage of completion method and the remaining 60 percent under the taxpayer's normal method of accounting (e.g., the completed contract method).	The percentage of completion-capitalized cost method of accounting is repealed for all long-term contracts other than certain qualified ship contracts that are provided special treatment under present law. Thus, taxpayers engaged in the production of property under a long-term contract (other than construction contracts of certain small businesses and certain qualified ship contracts) must use the percentage of completion method in computing taxable income under the contract. Effective date.--Contracts entered into on or after June 21, 1988. The provision, however, does not apply to any contract entered into pursuant to a written bid or proposal that was submitted before June 21, 1988, if the bid or proposal could not be revoked or altered at any time on or after such date and before the contract was entered into.	No provision.

Item	Present Law	House Bill	Senate Amendment
3. Insurance Provisions **a. Limitation on unreasonable mortality and expense charges for purposes of the definition of life insurance (sec. 346 of the House bill and sec. 701 of the Senate amendment)**	For purposes of the statutory definition of a life insurance contract, the mortality charges taken into account are the charges specified in the contract, or, if none are specified in the contract, the mortality charges used in determining the statutory reserve for the contract. For purposes of one of the alternative definitional tests (the guideline premium requirement), the expense charges taken into account are the expense charges specified in the contract.	For all life insurance contracts, the mortality charges taken into account for purposes of the definition of life insurance are required to be reasonable as determined under Treasury regulations and, except as provided in Treasury regulations, may not exceed the mortality charges required to be used in determining the Federal income tax reserve for the contract. The expense charges taken into account for purposes of the guideline premium requirement are required to be reasonable based on the experience of the company and other insurance companies with respect to similar life insurance contracts. __Effective date__.--Contracts entered into or materially changed on or after July 13, 1988.	No provision. In determining whether a contract that satisfies the statutory definition of life insurance is a modified endowment contract (within the meaning of the single premium life insurance provision of the Senate amendment), the mortality charges taken into account are the mortality charges specified in the prevailing commissioners' standard tables (as determined pursuant to sec. 807(d)(5)) at the time the contract is issued or materially changed (currently 1980 CSO), except to the extent provided otherwise by the Treasury Department (e.g., with respect to substandard risks). __Effective date__.--Contracts entered into on or after June 21, 1988 (i.e., the effective date of the Senate amendment with respect to the treatment of modified endowment contracts). A contract is considered entered into on or after June 21, 1988, if (1) on or after that date, the death benefit is increased or a qualified additional benefit is increased or added to the contract, and, prior to that date, the owner of the contract did not have a unilateral right under the contract to obtain the increase or addition without providing evidence of insurability, or (2) the contract is converted from term insurance coverage to other than term insurance coverage after June 20, 1988, without regard to any right of the owner under the contract to obtain such conversion.
4. Estate tax provisions **a. Disallow marital deduction when spouse is not a citizen of the United States (sec. 372 of the House bill and sec 800 of the Senate amendment)**	For U.S. citizens and residents, the amount subject to Federal estate and gift tax is determined by deducting the value of certain property passing from the decedent to the surviving spouse, regardless of the spouse's citizenship. For nonresident aliens, no marital deduction is allowed for estate and gift tax purposes.	For Federal estate tax purposes, the marital deduction is denied for property passing to an alien spouse. For Federal gift tax purposes, gifts to an alien spouse exceeding $100,000 per year are taxable. A marital deduction for Federal estate tax purposes is allowed for property passing from a nonresident alien to a spouse who is a U.S. citizen. __Effective date__.--Gifts made on or after July 14, 1988, and decedents dying after the date of enactment.	Same as the House bill, except that certain property passing to an alien spouse in trust is not included in the gross estate. Distributions of corpus, but not income, by such trust are subject to a tax equal to the estate tax which would have been imposed had the distributed amount been included in the decedent's estate. __Effective date__.--Same as the House bill.

Item	Present Law	House Bill	Senate Amendment
5. Tax-exempt bonds **a. Restrictions on issuance of pooled financing bonds (sec. 304 of the House bill)**	In certain cases, tax-exempt bonds are issued in pooled financing arrangements, i.e., arrangements where bonds are issued with the proceeds being used to make loans to two or more persons. In the case of bonds other than private activity bonds, no Federal statutory provisions require identification of the ultimate borrowers from (or the specific facilities to be financed by) these pooled financings at the time the bonds are issued. Further, assuming a governmental purpose exists for the borrowing, no specific statutory restrictions are imposed relating to the period during which loans must be originated, or bonds redeemed if loans are not timely originated.	Imposes new requirements on pooled financing issues as a condition of tax exemption. (1) Borrower identification requirement-- Written loan commitments are required with ultimate borrowers identifying with the governmental projects for which the proceeds will be used for at least 25 percent of the net proceeds of the issue, and it must be reasonably expected that the loans specified in those commitments will be made. (2) Loan origination/bond redemption requirement-- (i) Specified percentages of proceeds must be used to make loans within 1-, 2-, and 3-years after issuance. (ii) Shortfalls in loan origination as of the three dates and loan repayments must be used to redeem bonds within 6 months. **Effective date.**--Bonds (including refunding bonds) issued after July 15, 1988.	No provision.

Item	Present Law	House Bill	Senate Amendment
b. Student loan bonds			
(1) Reduction in permitted purpose arbitrage on loans financed with tax-exempt student loan bonds (sec. 366(a) and (b) of the House bill)	Tax-exempt bonds may be issued to finance student loans in connection with the Federal Guaranteed Student Loan program and the Parents' Loans for Undergraduate Students program. Additionally, tax-exempt financing is permitted for certain other State student loan programs of general application (Code sec. 144). Tax-exempt student loan bonds are subject to the arbitrage restrictions of the Code like other tax-exempt bonds.		
	(i) Treasury Department regulations permit issuers of pooled financing bonds generally to earn arbitrage profits on their "program" investments of 1.5 percentage points over the rate paid on the underlying bonds.	(i) The permitted arbitrage profits that may be earned on loans financed with tax-exempt student loan bonds are reduced from 1.5 percentage points to no more than 1.0 percentage point.	(i) No provision.
	(ii) The Department of Education pays a special interest subsidy on student notes financed with proceeds of student loan bonds issued in connection with the Federal GSL program. Under present Treasury Department regulation, these special allowance payments ("SAP" payments) are not included in determining the amount of arbitrage earned on student notes.	(ii) For Federally guaranteed student loan bonds, SAP payments are included in calculating permitted arbitrage profits on student notes. Effective date.--Bonds (including refunding bonds) issued after July 31, 1988. For refundings after July 31, 1988, of bonds issued before August 1, 1988, however, would apply only to loans originated on or after the date of the refunding.	(ii) No provision.
(2) Loan origination and bond redemption requirements for tax-exempt student loan bonds (sec. 336(c) of the House bill)	There is no statutorily imposed period during which student loans must be originated or bonds redeemed.	A 3-year loan origination period is imposed; unused proceeds and loan repayments must be used to redeem bonds within 6 months. Effective date.--Bonds (including refunding bonds) issued after July 31, 1988. In the case of an issue to refunds bonds issued before August 1, 1988, the requirement that loan repayments be used to redeem bonds does not apply to repayments received before the date of the refunding.	No provision.

Item	Present Law	House Bill	Senate Amendment
c. Restrictions on bonds used to provide residential rental housing (sec. 367 of the House bill)	Interest on bonds to finance governmental activities of States and local governments is tax-exempt. Unless specific exception is made in the tax code, generally interest on bonds to finance activities of any person other than a State or local government is taxable.		No provision, but a resolution expressing the sense of the Senate in opposition to the House provision.
	Tax-exempt bonds may be used to provide rental housing owned and operated by private, for-profit persons and by sec. 501(c)(3) organizations. Sec. 501(c)(3) organizations are not subject to low-income tenant occupancy requirements that apply to for-profit developers.	The for-profit low-income tenant occupancy requirements are extended to rental housing financed with qualified 501(c)(3) bonds.	
	Governmental bonds also may be used to finance rental housing. No special restrictions apply to rental housing financed with governmental bonds.	Rental housing located outside the issuer's jurisdiction is treated as a nonpurpose investment subject to yield restrictions and rebate requirement under the Code arbitrage rules. **Effective date**.--Bonds (including refunding bonds) issued after July 14, 1988. Transitional exception is provided for bonds for housing where construction commenced on or before July 14, 1988. A second transitional exception permits bonds to be issued after July 14, 1988, to refund	

Item	Present Law	House Bill	Senate Amendment
6. Excise tax provisions			
a. Excise tax on pipe tobacco (sec. 380 of the House bill)	Excise taxes are imposed on cigars, cigarettes, and on snuff and chewing tobacco. The tax on small cigarettes is 16 cents per pack of 20 cigarettes.	Imposes an excise tax of $2.67 per pound on pipe tobacco manufactured in or imported into the U.S. (Rate is equivalent to the minimum rate per pound for the tax on small cigarettes.) Effective date.--Pipe tobacco removed after September 30, 1988. Also, there is a floor stocks tax on pipe tobacco held for sale or in transit on October 1, 1988.	No provision.
b. Modification of distilled spirits flavors credit (sec. 703 of the Senate amendment)	A credit is allowed against the distilled spirits tax for the alcohol content of distilled spirits beverages derived from wine and/or flavor components. The flavors credit is equal to the amount of the distilled spirits tax ($12.50 per proof gallon).	No provision.	The use of the flavors credit is available only where the flavors are added to the distilled spirits beverage after completion of distillation. Effective date.--Distilled spirits removed after the date of enactment.
7. Increase in penalty for bad checks (sec. 382 of the House bill)	A person who tenders to the IRS a bad check in payment of any amount under the Internal Revenue Code is subject to a penalty equal to the greater of: (1) 1 percent of the amount of such check, or (2) $5 (or the amount of such check if less than $5). The penalty does not apply if the person tendered the check in good faith and with reasonable cause to believe that it would be duly paid.	The penalty is increased to the greater of: (1) 2 percent of the amount of such check, or (2) $15 (or the amount of such check if less than $15). Effective date.--Checks or money orders received by the IRS after the date of enactment.	No provision.

Item	Present Law	House Bill	Senate Amendment
8. Pension reversions of qualified plan assets: temporary increase in excise tax (sec. 799 of the Senate amendment)	A 10-percent excise tax is imposed on employer reversions from qualified plans. Present law contains certain exemptions from the excise tax, for example, for certain transfers of reversions to an ESOP. The excise tax is required to be paid by the last day of the second month following the calendar quarter in which the reversion occurs.	No provision.	The excise tax is temporarily increased from 10 percent to 60 percent. Present-law exceptions to the excise tax continue to apply as under present law, but are not otherwise modified. The excise tax is required to be paid by the end of the month following the month in which the reversion occurs. Effective date.--The increase in the excise tax generally applies to reversions received after July 26, 1988, and before May 1, 1989. The acceleration of time for payment of the tax applies to reversions received on or after May 1, 1989. In addition, the increased tax does not apply if a final order directing plan termination was entered by a court of competent jurisdiction and notice of such court-ordered termination was provided to participants before July 27, 1988.
9. Denial of deduction for certain residential telephone service (sec. 337 of the House bill)	No deduction is allowed for personal, living, or family expenses, such as expenses for personal use of a telephone in the taxpayer's residence. However, a taxpayer who uses the telephone in his or her residence for business or income-production purposes may deduct a proportionate part of the cost of local telephone service provided to the residence, subject to any applicable limitations on home office deductions or miscellaneous itemized deductions.	No deduction is allowed to an individual taxpayer for any charge (including any sales or excise taxes imposed on such charge) required to be paid by the taxpayer in order to obtain local telephone service with respect to the first telephone line in the taxpayer's residence (whether or not the taxpayer's principal residence). The provision does not affect the deductibility of charges for long-distance calls, nor does it affect the deductibility of charges for equipment rental, optional services offered by the telephone company (e.g., call waiting or call forwarding) or charges attributable to additional telephone lines to a taxpayer's residence other than the first telephone line. Effective date.--Taxable years beginning after December 31, 1988.	No provision.

Item	Present Law	House Bill	Senate Amendment
10. Information reporting by partnerships with tax-exempt partners (Senate amendment)	Organizations that are exempt from Federal income tax are subject to tax on any unrelated trade or business income. Subject to specified exceptions, modifications, and computational rules, an activity of an otherwise tax-exempt organization generates gross income for purposes of the unrelated business income tax (UBIT) if (1) the income is derived from a trade or business, (2) the trade or business is regularly carried on by the organization, and (3) the conduct of the trade or business is not substantially related (aside from the organization's need for revenues or the use it makes of such revenues) to the organization's performance of its tax-exempt functions. Interest, dividends, and certain gains or losses from the sale of property may be subject to the UBIT if derived from debt-financed unrelated property. If a partnership in which an exempt organization is a partner regularly carries on a trade or business that would constitute an unrelated trade or business if directly carried on by the exempt organization, the organization generally must include its share of the partnership's income from such business in computing its UBIT liability; also, special rules apply where the organization is a partner in a publicly traded partnership. However, present law does not require partnerships in which exempt organizations are partners to report specifically that portion of the organization's distributive share of partnership income that is subject to the UBIT.	No provision.	In the case of any partnership regularly carrying on a trade or business, the information that must be furnished under present law to the partners is to include such information as necessary to enable each tax-exempt partner to compute its distributive share of partnership income or loss from such trade or business in accordance with specified UBIT provisions. Effective date.--Taxable years beginning after December 31, 1988.
11. Options subject to wash sale rules (Senate amendment)	The wash sale provisions generally disallow the deduction of a loss on the sale or other disposition of shares of stock or securities if the taxpayer acquires or enters into a contract or option to acquire substantially identical stock or securities within a period beginning 30 days before the date of such sale or other disposition and ending 30 days after such date. The Tax Court recently held in Gantner v. Commissioner that the wash sale rules do not apply to disallow losses sustained on the sales of stock options.	No provision.	The wash sale rules are extended to apply to contracts or options to acquire or sell stock or securities. Effective date.--The provision would apply to any sale after the date of enactment of the provision, in taxable years ending after that date.

Item	Present Law	House Bill	Senate Amendment
VI. RAILROAD UNEMPLOYMENT AND RETIREMENT PROVISIONS			
A. Railroad Unemployment Amendments (sections 501-514, 516, and 518-523 of the Senate amendment)	(1) Compensation base.--$600 is the maximum monthly amount of earnings of each employee for purposes of computing the tax which supports the railroad unemployment program and for purposes of determining whether the employee has sufficient base year wages to qualify for benefits.	No provision. (A separate House-passed bill--H.R. 2167--contains largely identical provisions except for differences in effective dates and the differences shown below.)	(1) Compensation base.--Starting with 1989, the compensation base will be automatically increased each year by 2/3 of the rise in wage levels in the economy using the same index as applies to the social security tax base. Conforming changes are made to the definition of subsidiary remuneration, to the maximum annual benefit amount, and to the amount of earnings required to terminate a disqualification.
	(2) Tax rates.--Railroad employers pay a uniform tax of 8 percent of the compensation base to support the railroad unemployment program. (The uniform rate can vary from year to year in a range of 0.5 to 8 percent but has been at 8 percent since January 1, 1981.)		(2) Tax rates.--The tax rate will remain at 8 percent through 1990. Starting with 1991, the tax rate will begin to be based on an experience rating formula under which tax rates vary among employers according to the amount of benefits that have been paid to their employees. The experience rating system becomes fully effective starting in 1993. The computation of each employer's tax liability will be adjusted to cover benefit costs which cannot be allocated to individual employers or which are not fully covered because of an overall 12 to 12.5 percent cap on individual employer rates. Employers will be afforded an opportunity to appeal the award of benefits to their employees.
	(3) Commuter railroads pay unemployment taxes on the same basis as other railroads.		(3) For 1989 and 1990, public commuter railroads will be exempt from paying the 8 percent tax and will instead reimburse the unemployment system for the amount of benefits paid during the year to their employees. Starting in 1991, those railroads will again pay taxes on the same basis as other railroads.
	(4) The administrative costs of the program are financed by a tax of 0.5 percent.		(4) The tax to cover administrative costs is increased from 0.5 percent to 0.65 percent.
	(5) In addition to other taxes, railroads now pay a special tax designed to repay the borrowings of the unemployment program from the railroad retirement program. This tax is 6 percent in 1988, 2.9 percent in 1989, and 3.2 percent in January-September of 1990. It expires at that time.		(5) The rate of the repayment tax is changed to 4 percent effective with 1989 and it stays in effect until all borrowing by the railroad unemployment system from the railroad retirement system prior to October 1, 1985 has been repaid with interest.

Item	Present Law	House Bill	Senate Amendment
A. Railroad Unemployment Amendments--Cont.	(6) If there is any further borrowing by the unemployment program from the retirement program, a surtax of 3.5 percent would automatically go into effect. The surtax is not currently in effect.		(6) The present law contingent surtax of 3.5 percent is eliminated starting in 1991. Instead, there will be a surcharge added to employers' unemployment taxes whenever the balance in the unemployment account as of the previous June 30 is less than $100 million. The surcharge rate will range from 1.5 to 3.5 percent depending on how low the balance has fallen.
	(7) Present law has no waiting period for railroad unemployment benefits.	(7) H.R. 2167 provides for a 9-day waiting period.	(7) No benefits will be payable during the first 2-week registration period each year in which the individual has more than four days of unemployment. A similar rule will apply to sickness benefits. In effect, this provision represents a 2-week waiting period for unemployment and sickness benefits.
	(8) Unemployment benefits are payable at a rate of $25 per day.		(8) Effective July 1, 1988, the daily unemployment benefit rate is increased to $30. Starting in July of 1989, this amount will be indexed by 2/3 of the growth of wages in the general economy using the same index that is used to increase the social security taxable wage base.
	(9) To qualify for unemployment benefits, an individual must have earned at least $1,500 in creditable wages in the base year. (This is the equivalent of 2.5 months under the present law compensation base of $600, and thus requires employment in at least 3 months of the base year.)	(9) H.R. 2167 requires approximately 6 months of qualifying employment in the base year.	(9) The $1,500 base year earnings requirement is changed to a requirement of 2.5 times the indexed compensation amount. This has the effect of continuing to require employment in at least 3 months of the base year.

Item	Present Law	House Bill	Senate Amendment
B. **Railroad Retirement Provisions (secs. 531-534 of the Senate amendment)**	(1) Certain individuals retiring from railroad employment receive a severance payment which is subject to the tier II railroad retirement tax even though the individual gets no additional service-month credit because of that payment. (2) Railroad retirement benefits (including spouses benefits) are not payable for months in which the retiree works for his or her last non-railroad employer. (3) Disability annuitants lose benefits for any month in which they have earnings of more than $200 for the month and more than $2,400 for the year. (4) Military service credit is given under the railroad retirement system to certain individuals previously in rail employment if their military service occurred in a war period. The period of June 15, 1948 to December 15, 1950 is not considered a war period.	No provision. (A separate House-passed bill--H.R. 2167--contains largely identical provisions except for differences in effective dates.)	(1) A lump-sum refund to employees will be made equal to the tier II taxes paid on severance payments which do not result in additional service-month credit. This applies to such payments made on or after January 1, 1985. (2) The "last person service" rule is eliminated. Instead, tier II benefits are reduced by 50 percent of any earnings from the individual's last non-railroad employer. The total reduction in tier II plus supplemental benefits can not be more than 50 percent. (3) The earnings limit on disability annuities is increased to $400 for the month and $4,800 for the year. In determining these amounts, disability related work expenses are excluded. The June 15, 1948 to December 15, 1950 period is added to what is considered to be a war period in the case of individuals who returned to railroad employment in the year in which their military service ended or in the following year.
C. **Reports and Study (secs. 515 and 517 of the Senate amendment)**	No provision.	No provision. (A separate House-passed bill--H.R. 2167--contains largely identical provisions.)	(1) The Railroad Retirement Board is directed to make annual reports to Congress on the status of the railroad unemployment insurance system. The annual reports are due by July 1 of each year, beginning in 1989. (2) The Comptroller General is directed to conduct a study to determine the extent and impact of fraud and payment error in the railroad unemployment program. The report is due not later than one year after date of enactment.

Item	**Present Law**	**House Bill**	**Senate Amendment**
VII. SOCIAL SECURITY ACT AMENDMENTS; MEDICARE AND MEDICAID AMENDMENTS **A. Social Security Act Amendments** **1. Interim benefits in cases of delayed final decisions (sec. 401 of the House bill)**	If, upon appeal, an individual receives an unfavorable determination regarding disability benefits from an Administrative Law Judge (ALJ), he or she may appeal the ALJ's decision to the Social Security Administration's Appeals Council. If, on the other hand, the individual receives a favorable determination from the ALJ, the Appeals Council may review the determination on its "own motion." No disability benefits are paid while a case is under review by the Appeals Council.	In any disability case under Title II or Title XVI of the Social Security Act in which an ALJ has made a decision favorable to the individual and the Appeals Council has not rendered a final decision within 110 days, interim benefits would be provided to the individual. (Delays in excess of 20 days caused by or on behalf of the claimant would not count in determining the 110 day period.) These benefits would begin with the month before the month in which the 110-day period expired, and would not be considered overpayments if the final decision were adverse, unless the benefits were fraudulently obtained. Effective date.--The provision would be effective with respect to favorable ALJ decisions made 180 days or more after enactment.	No provision.
2. Application of earnings test in year of individual's death (sec. 402 of the House bill)	A social security beneficiary under age 70 with earnings in excess of certain thresholds is subject to a $1 reduction in benefits for every $2 earned over the exempt amount. The annual exempt amount under the earnings test is lower for beneficiaries under age 65 than for those 65-69. In 1988, the exempt amount for those under age 65 is $6,120, and the age 65-69 exempt amount is $8,400. The higher exempt amount is applicable in the year a beneficiary reaches age 65. If a beneficiary dies, the annual exempt amount applicable at the time of death is prorated based on the number of months that he or she lived during the year. In addition, the lower exempt amount applies if a beneficiary dies before his or her birthdate in the year the beneficiary would have turned 65. Thus, overpayments can occur when beneficiaries die unexpectedly and the thresholds on earnings are lower than anticipated.	The annual exempt amount would not be prorated in the year of death. In addition, the higher annual exempt amount for beneficiaries age 65-69 would apply to people who die before their birthdate in the year that they otherwise would have attained age 65. Effective date.--The provision would be effective with respect to deaths after the date of enactment.	No provision.

Item	Present Law	House Bill	Senate Amendment
3. Exemption from reduction in "windfall" benefit (sec. 403 of the House bill)	Under the "windfall" benefit provision of the Social Security Amendments of 1983, social security benefits are generally reduced for workers who also have pensions from work that was not covered under social security (e.g., work under the Federal Civil Service Retirement System). Under the regular, weighted benefit formula, benefits are determined by applying a set of declining percentages to average indexed monthly earnings. For workers who reach age 62 in 1988, a worker's basic benefit is equal to 90 percent of the first $319 of average indexed monthly earnings, 32 percent of earnings from $319 through $1,922, and 15 percent of earnings above $1,922. The formula applicable to those with pensions from noncovered employment substitutes a rate of 40 percent for the 90-percent rate in the first bracket. (The second and third factors of the formula remain the same.) The resulting reduction in the worker's social security benefit is limited to one-half the amount of the noncovered pension. The new law is being phased in over a 5-year period, beginning with those persons first eligible for social security benefits in 1986. Workers who have 30 years or more of substantial social security coverage are fully exempt from this treatment. For workers who have 26-29 years of coverage, the percentage in the first bracket in the formula increases by 10 percentage points for each year over 25, as illustrated below: Years of social security coverage — First factor in formula (percent) 25 or fewer — 40 26 — 50 27 — 60 28 — 70 29 — 80 30 or more — 90	The years of social security coverage required in order for an individual to be exempt from the windfall benefit formula would be lowered from 30 to 25 years. Similarly, the years of coverage at which the formula gradually takes effect would be scaled back, as illustrated below: Years of social security coverage — First factor in formula (percent) 20 or fewer — 40 21 — 50 22 — 60 23 — 70 24 — 80 25 or more — 90 Effective date.--The provision would be effective for benefits payable for months after December 1988.	No provision.

Item	Present Law	House Bill	Senate Amendment
4. Denial of benefits to individuals deported or ordered deported on the basis of association with the Nazi government of Germany during World War II (sec. 404 of the House bill and sec. 603 of the Senate amendment)	People who are deported for violating specified provisions of the Immigration and Nationality Act lose their social security benefits. The list of provisions for which people are denied benefits does not, however, include paragraph 19 of that Act. Paragraph 19, which was added to the Immigration and Nationality Act in 1978, pertains to people deported for certain activities in association with the Nazi government of Germany during World War II.	Benefits to individuals deported as Nazi war criminals under paragraph 19 of the Immigration and Nationality Act would be terminated. Effective date.--The provision would apply only in the case of deportations occurring, and final orders of deportation issued, on or after the date of enactment, and only with respect to benefits beginning on or after such date.	Identical provision.
5. Modification in the term of office of Public members of the Social Security Boards of Trustees (sec. 405 of the House bill and 800F of the Senate Amendment)	The Boards of Trustees of the Social Security Trust Funds are composed of the Secretaries of the Treasury, Labor, Health and Human Services, and two members of the public. The members of the public are nominated by the President and confirmed by the Senate. The law specifies that their term of service is for four years, but is otherwise silent on the length of term for a public member appointed to fill a vacancy left by another public member who leaves before the end of his or her term. The law is likewise silent on whether a public member is permitted to serve after the expiration of his or her term until a successor has taken office.	A public member appointed to fill a vacancy occurring before the end of a term would be appointed only for the remainder of such term. A public member, whether appointed for a full term or appointed to fill an unexpired term, would be permitted to serve after the expiration of that term until a successor had taken office. Effective date.--The provision would be effective upon enactment.	Similar provision, except that a trustee could serve beyond the expiration of his or her term only until the earlier of the issuances of the next report of the Boards of Trustees or the date on which a successor takes office.

Item	Present Law	House Bill	Senate Amendment
6. Continuation of disability benefits during appeal (sec. 406 of the House bill and sec. 601 of the Senate amendment)	A disability insurance beneficiary who is determined to be no longer disabled may appeal the determination sequentially through three appellate levels within the Social Security Administration (SSA): a reconsideration, usually conducted by the State Disability Determination Service that rendered the initial unfavorable determination; a hearing before an SSA Administrative Law Judge (ALJ); and a review by a member of SSA's Appeals Council. The beneficiary has the option of having his or her benefits continued through the hearing stage of appeal. If the earlier unfavorable determinations are upheld by the ALJ, the benefits are subject to recovery by the agency. (If an appeal is determined to be in good faith, benefit repayment may be considered for waiver.) Medicare eligibility is also continued, but medicare benefits are not subject to recovery. The Omnibus Budget Reconciliation Act of 1987 extended this provision for one year. The Act authorized the payment of interim benefits to persons in the process of appealing termination decisions made before January 1, 1989. Such payments may continue through June 30, 1989 (i.e., through the July 1989 check).	The period in which disability benefits may be paid, and medicare eligibility continued, while an appeal is in progress would be extended for one additional year. Upon application by the beneficiary, benefits would be paid while an appeal is in progress with respect to unfavorable determinations made on or before December 31, 1989, and would be continued through June 1990 (i.e., through the July 1990 check). Effective date.--The provision would be effective with respect to unfavorable decisions made on or before December 31, 1989.	Identical provision.
7. Extend social security exemption for members of certain religious faiths (sec. 407 of the House bill)	Self-employed workers may claim an exemption from social security coverage if they are members of a religious sect or division that is conscientiously opposed to the acceptance of public or private insurance benefits, if they have waived all benefits under Titles II and XVIII, and if the sect or division has been in existence since December 31, 1950, and provides for the care of its dependent members (e.g., the Amish). Employees who belong to such religious sects, however, are required to participate in social security.	The provision would extend the current-law treatment of the self-employed to their employees in cases where both the employee and the employer are members of a qualifying religious sect or division. The optional exemption would apply to both the employer and employee portion of the tax. Effective date.--The provision would apply to taxable years beginning on or after January 1, 1989.	No provision.

Item	Present Law	House Bill	Senate Amendment
8. **Blood donor locator service (sec. 408 of the House bill)**	Government agencies may require individuals to furnish social security numbers (SSNs) only for certain specified purposes. States are authorized to require SSNs to administer tax, public assistance, drivers' license and motor vehicle registration laws.	States or authorized blood donation facilities (those licensed or registered with the Food and Drug Administration, such as the Red Cross) would be permitted to require donors to furnish SSNs. The Secretary of Health and Human Services (HHS) would be required to establish and operate a Blood Donor Locator Service, under the direction of the Commissioner of Social Security, to be used to obtain and transmit the most recent mailing address of any blood donor whose blood shows that he or she may be carrying the virus for acquired immune deficiency syndrome (AIDS), for the sole purpose of informing the blood donor of the possible need for medical care and treatment. The provision would permit access to the address information only to State agencies and blood donation facilities meeting requirements for confidentiality and security. Effective date.--The Secretary of HHS would be required to establish the Blood Donor Location Service no later than 180 days after the date of enactment.	
9. **Payment of lump-sum death benefits to legal representatives of widows and widowers who die before receiving payment (sec. 409 of the House bill)**	A lump-sum death payment of $255 is payable on the death of an insured worker to a surviving spouse who is living with the worker at the time of the worker's death. If there is no such spouse, then the benefit is payable to a surviving spouse who is eligible for benefits as a widow(er), mother, or father at the time of the worker's death. If there is no eligible spouse, the lump-sum death payment is payable to a child of the deceased worker who was eligible to receive benefits on the deceased's earnings record at the time of the worker's death. If the widow(er) dies before making application for the lump-sum payment or before negotiating the benefit check, no lump-sum death benefit is payable.	The provision would permit the legal representative of the estate of a deceased widow(er) to claim the lump-sum payment in cases in which the otherwise eligible widow(er) dies before having both received and negotiated such payment. Where the legal representative of the estate is a State or political subdivision of a State, the lump-sum benefit would not be payable. Effective date.--The provision would be effective with respect to deaths of widow(er)s occurring on or after January 1, 1989.	No provision.

Item	Present Law	House Bill	Senate Amendment
10. Requirement of social security number as a condition for receipt of social security benefits (sec. 410 of the House bill and sec. 604 of the Senate amendment)	Applicants for social security benefits are not required to have social security numbers (SSNs) in order to receive benefits. The absence of an SSN for auxiliary and survivor beneficiaries hampers monitoring which might detect duplicate benefit payments, unreported earnings, or entitlement to other benefits. The SSA currently requests that applicants voluntarily provide their SSNs. Under Federal law, recipients of Aid to Families with Dependent Children, Supplemental Security Income, and Veterans' Assistance benefits are currently required to provide their SSNs in order to receive benefits under those programs.	Individuals would be required to have an SSN in order to receive social security benefits. Those lacking an SSN would be required to apply for one. Beneficiaries currently on the rolls would not be subject to this requirement. Effective date.--The provision would be effective with respect to benefit entitlements commencing after the sixth month following the month of enactment.	Similar provision.
11. Substitution of certificate of election for application to establish entitlement for certain reduced widow's and widower's benefits (sec. 411 of the House bill and sec. 605 of the Senate amendment)	An individual who (1) is receiving a combination of a reduced spouse's benefit and either retirement or disability benefits on his or her own record and (2) is between the ages of 62 and 65 when his or her spouse dies, must file an application to receive reduced widow(er)'s benefits. Those who are over age 65 when the worker dies and who are receiving spouses' benefits or those age 62-65 when the worker dies who are not entitled to their own retirement or disability benefits may receive reduced widow(er)s' benefits by filing a certificate of election rather than an application. An application for a reduced widow(er)'s benefit is generally not effective for months before the month of filing. Thus, a break in entitlement could occur if the application were not filed in a timely fashion.	An individual who is receiving both a reduced spouse's benefit and a retirement or disability benefit and who is between the ages of 62 and 65 when his or her spouse dies, could receive a reduced widow(er)'s benefit by filing a certificate of election. A certificate of election would be effective for up to 12 months before it is filed. Effective date.--The provision would be effective with respect to benefits payable based on the record of individuals who die after the month of enactment.	Identical provision.

Item	Present Law	House Bill	Senate Amendment
12. Calculation of windfall benefit guarantee amount based on pension amounts payable in the first month of concurrent entitlement rather than concurrent eligibility (sec. 412 of the House bill)	Under the windfall benefit provision, a special formula is used to compute the social security benefits of workers who are also eligible for pensions based on noncovered employment. The "windfall guarantee" assures that the resulting reduction in the social security benefit will not exceed one-half of the amount of the noncovered pension. The amount of the noncovered pension used in this calculation is the amount payable in the first month the individual is eligible for both the pension and social security (i.e., the first month he or she could receive both of these benefits if he or she applied for them--the month of "concurrent eligibility"). This amount is used regardless of whether the individual actually receives (i.e., is entitled to) the benefits at that time. To compute an individual's benefits, the Social Security Administration must ask the individual's pension administrator to determine the pension amount that would have been payable at the date of first concurrent eligibility for both the pension and social security (usually age 62) regardless of the pension amount which the person will actually receive upon entitlement. Processing delays and errors can occur when pension administrators make this fictitious computation of the pension amount.	The amount of the pension considered when determining the windfall guarantee would be the amount payable in the first month of concurrent entitlement to both social security and the pension from noncovered employment. Effective date.--The provision would be effective for benefits based on applications filed on or after January 1, 1989.	No provision.
13. Consolidation of reports on continuing disability reviews (sec. 413 of the House bill and sec. 602 of the Senate amendment)	The Secretary of Health and Human Services is required to make two types of reports on continuing disability reviews to the Senate Committee on Finance and House Committee on Ways and Means. The first is a semiannual report on the results of continuing disability reviews. The second is an annual report on the appropriate number of disability cases to be reviewed in each State.	The frequency of the report on the results of continuing disability reviews would be changed from semiannual to annual. Effective date.--This provision would be effective with respect to reports required to be submitted after the date of enactment.	Identical provision.

Item	Present Law	House Bill	Senate Amendment
14. Exclusion of employees separated from employment before January 1, 1989, from rule including as wages taxable under FICA certain payments for group-term life insurance (sec. 414 of the House bill)	The Omnibus Budget Reconciliation Act of 1987 required the cost of employer-provided group-term life insurance to be included in wages for FICA tax purposes if it is includible for gross income tax purposes. Under current law, it is includible for gross income tax purposes to the extent that coverage exceeds $50,000.	Group-term life insurance provided to individuals who separated from service before January 1, 1989 would be excluded from FICA tax. Effective date.--The provision would be effective with respect to separations from service before January 1, 1989.	No provision.
15. Treatment of earnings of corporate directors (sec. 415 of the House bill)	The Omnibus Budget Reconciliation Act (OBRA) of 1987 provides that corporate directors' earnings shall be treated as received when earned, regardless of when actually paid, for purposes of both the social security tax and the social security retirement test. Prior to OBRA, because corporate directors' earnings were treated as self-employment income, directors were able to defer the impact of FICA taxation and avoid benefit reductions from the retirement test by deferring receipt of earnings until reaching age 70.	The portion of the 1987 OBRA provision that treats directors' earnings as received when earned, and thus taxable for social security purposes, would be repealed. Directors' earnings would be treated as received when earned only for purposes of the social security retirement test. Effective date.--The provision would be effective as if it had been included in OBRA of 1987 at the time of its enactment.	No provision.

Item	Present Law	House Bill	Senate Amendment
16. **Clarification of applicability of government pension offset to certain Federal employees (sec. 416 of the House bill)**	Social security benefits payable to spouses of retired, disabled, or deceased workers are reduced to take account of any public pension the spouse receives as a result of work in a government job not covered by social security. The amount of the reduction is equal to two-thirds of the government pension. Generally, Federal workers hired before 1984 are part of the Civil Service Retirement System (CSRS) and are not covered by social security. Most Federal workers hired after 1983 are covered by the Federal Employees' Retirement System Act of 1986 (FERS), which includes coverage by social security. The FERS law provided that workers covered by the CSRS could, from July 1, 1987 through December 31, 1987, make a one-time election to join FERS. Because the law generally provides that the offset does not apply to workers whose government job is covered by social security on the last day of the person's employment, a CSRS employee who switched to FERS during this period immediately became exempt from the government pension offset. This exemption, however, was only available if the election to change to FERS actually took effect prior to the date of the individual's retirement. The Omnibus Budget Reconciliation Act (OBRA) of 1987 provided that employees who elect to join FERS during any election period which may occur after 1987 would be exempt only if they have five or more years of Federal service covered by social security after June 30, 1987.	The House bill would provide that anyone who elected FERS on or before December 31, 1987 would be exempt from the government pension offset even if that person retired from government service before the FERS coverage became effective. In addition, the provision would make it clear that the 1987 OBRA provision applies not only to Federal employees who join FERS by electing to become subject to chapter 84 of title 5, United States Code, but also to foreign service employees who join FERS by electing to become subject to chapter 22 of title 1, United States Code. Effective date.--Effective as if they had been included in OBRA of 1987 at the time of its enactment.	No provision.

Item	Present Law	House Bill	Senate Amendment
17. Clarification regarding social security coverage for certain civil servants (sec. 417 of the House bill)	(1) The Social Security Amendments of 1983 provided mandatory social security coverage for presidential appointees as well as the President, Members of Congress, Federal judges, and certain executive level civil servants. However, section 205(p) of the Social Security Act provides that the Secretary of Health and Human Services (HHS) shall accept the determination of the head of a Federal agency as to whether a Federal employee has performed service, as to the periods of such service, and as to the amount of remuneration which constitutes wages. The Office of Personnel Management (OPM) has interpreted this section to mean that a Federal agency may determine whether or not an employee's service constitutes social security covered employment. Because the civil service statute permits career Senior Executive Service (SES) employees to retain their pay, rank, and retirement plan when they move to a presidential appointment, OPM has interpreted section 205(p) to mean that such individuals may avoid social security coverage despite the coverage provisions of the 1983 Social Security Amendments (while retaining coverage under the old Civil Service Retirement System).	(1) The provision would clarify that the Secretaries of HHS and Treasury, not the head of any other Federal agency, have the authority to make the final determination as to whether an individual's services constitute social security covered employment, including those of presidential appointees.	No provision.
	(2) When an individual accepts a mandatorily covered Federal job and subsequently returns to his or her previous job or another noncovered Federal job, he or she loses social security coverage.	(2) In addition, the provision would clarify that any civil servant who becomes covered by social security as a result of taking a mandatorily covered Federal job would retain social security coverage in any subsequent Federal job. **Effective date**.-- (1) The provision would be effective with respect to determinations relating to service commenced in any position on or after the date of enactment; (2) the provision would be effective with respect to service performed on or after the date of enactment in a position mandatorily covered by social security.	

Item	Present Law	House Bill	Senate Amendment
18. Technical corrections in OASDI provisions (sec. 418 of the House bill and sec. 606 of the Senate amendment)	Miscellaneous minor and technical errors.	Minor and technical revisions. **Effective date.**--Generally upon enactment, except for certain provisions that would be effective as if included in the relevant public law at the time of its enactment.	Similar provisions.
19. National Academy of Social Insurance (secs. 901-916 of the Senate amendment)	No provision.	No provision.	Provides a Federal charter for the National Academy of Social Insurance (a tax-exempt corporation, organized and incorporated under the laws of the District of Columbia), with the objects and purposes of: (1) promoting an informed and nonpartisan study of, and education with respect to, social insurance; (2) bringing together experts with diverse backgrounds to consider social insurance in an interdisciplinary way; (3) assisting in the development of social insurance scholars and administrators; (4) encouraging research and studies on topics of relevance to social insurance; and (5) sponsoring seminars and other public meetings. This National Academy of Social Insurance shall report on its activities to Congress annually. **Effective date.**--The provision would be effective upon enactment.
20. Exemption from FICA tax for certain agricultural workers (sec. 709 of the Senate amendment)	Cash wages paid by an employer to an employee for agricultural labor in any calendar year are subject to FICA tax if (1) the employee received cash remuneration of at least $150, or (2) the employer pays more than $2,500 to all employees for such agricultural labor during the taxable year.	No provision.	Wages paid to an employee who receives less than $150 in annual cash remuneration by an agricultural employer would be excluded from FICA tax provided the employee: (1) is employed in agriculture; (2) is a hand harvest laborer; (3) is paid on a piece-rate basis; (4) is paid piece-rates in an operation which has been, and is customarily and generally recognized as having been paid on a piece-rate basis in the region of employment; (5) commutes daily from his or her permanent residence to the farm on which he or she is so employed; and (6) has been employed in agriculture less than 13 weeks during the preceding calendar year. **Effective date.**--Remuneration paid for agricultural labor paid after December 31, 1987.

Item	Present Law	House Bill	Senate Amendment
21. Certain employer pension contributions not included in FICA wage base (sec. 762 of the Senate amendment)	The 1983 Social Security Amendments provided that the payment by a State or local employer of employee contributions under a State or local retirement plan would be treated as wages subject to employment taxes (FICA and FUTA). The Deficit Reduction Act of 1984 modified this provision to allow the exclusion from wages for employment tax purposes of any amounts paid by a State or local employer of employee contributions pursuant to a State pick-up plan unless the pickups were made pursuant to a salary reduction agreement. On the basis of the 1984 Act, some States established pick-up plans after obtaining letter rulings from the Internal Revenue Service to the effect that the pickups would not be considered wages for employment purposes. A subsequent review of the issue, in the light of statement of managers language in the conference report on the 1984 Act, led the Internal Revenue Service to reverse its position and to revoke the earlier letter rulings. In revoking the earlier letter rulings, the IRS indicated that the States affected could apply for relief from liability for employment taxes on the pickups with respect to the retroactive period prior to the revocation of the letter ruling.	No provision.	The provision relieves State or local governments from FICA tax liability for employer "pickups" subsequent to the effective date of the 1984 Act to the extent that the State did not pay the FICA taxes in good faith reliance on a letter ruling of the Internal Revenue Service. Effective date.--The relief would apply only to pickups for which FICA taxes were not paid and only for the period ending with the earlier of the date of enactment of this provision or the receipt by the State or local government from the IRS of a notice of revocation of the letter ruling.

Item	Present Law	House Bill	Senate Amendment
22. Required use of consumer price index for urban consumers by Federal officer or agency in determining certain cost-of-living increases (sec. 800R of the Senate amendment)	In determining cost- of-living adjustments (COLAs) in amounts of benefits or allowances of a Federal program, any Federal officer or agency that administers such a program is required to use the Consumers Price Index for Urban Wage Earners and Clerical Workers, i.e., CPI-W. COLAs are based on the percentage change in the CPI-W, measured from the average of the third quarter of one year to the average of the third quarter of the succeeding year. The CPI-W measures the average change in prices of goods and services representing the spending habits of 32 percent of the population. The CPI-U (Consumer Price Index for Urban Consumers) measures the price changes of gods and services that represents the spending habits of 80 percent of the population. The provision does not apply to a COLA formula which has been negotiated between any private or public (i.e., State or local government) employer and any labor union or employee association, nor to present or future actions relating to rights, benefits, or obligations between individuals, businesses, and State and local governments.	No provision.	Any Federal officer or agency that administers a Federal program that provides benefits or allowances which are adjusted periodically in consonance with the consumers price index is required to use the Consumer Price Index for Urban Consumers, i.e., CPI-U. Effective date.--Any Federal cost-of-living adjustment payable in any month beginning on or after December 1, 1989.

Item	Present Law	House Bill	Senate Amendment
23. Study of disability applications involving AIDS related complex (ARC) (Senate amendment)	No provision.	No provision.	Requires the Department of Health and Human Services to report to the Committee on Ways and Means and the Committee on Finance concerning applications for social security disability benefits by persons with AIDS related complex (ARC). The report is to indicate the number of applications approved, denied (by reason for denial), and reversed on appeal. To the extent feasible, denial and allowance rates are to be provided on a State and regional basis. The report is also to provide information on and copies of eligibility criteria including any modifications under consideration. Costs of benefits for such persons during the years in question and projected costs for the coming three years are also to be reported. A report is also required on what arrangement, if any, exist for coordination between the Social Security Administration and State disability insurance programs to make individuals with ARC aware of the benefits which may be available to them under Federal and State programs. Effective date.--Date of enactment.

Item	Present Law	House Bill	Senate Amendment
B. Public Assistance Provisions			
1. Moratorium on emergency assistance and AFDC special needs regulations (sec. 611 of the Senate amendment)	States may operate an emergency assistance program for needy families with children (whether or not eligible for AFDC), if the aid is needed to avoid the child's destitution or to provide living arrangements in a home for the child. The law authorizes 50-percent Federal matching funds for emergency assistance "furnished for a period not in excess of 30 days in any 12-month period." Current regulations state that Federal matching funds are available for emergency assistance "which the State authorizes during one period of 30 consecutive days in any 12 consecutive months, including payments which are to meet needs which arose before such 30-day period or are for such needs as rent which extend beyond the 30-day period." Current AFDC regulations also allow States to include in their standards of need provision for meeting "special needs" of applicants and recipients. The State plan must specify the circumstances under which such payments will be made. On December 14, 1987, the Department of Health and Human Services published in the Federal Register a proposed regulation that would have restricted use of AFDC emergency assistance funds for homeless families and limited States' authority to make payments for special needs of AFDC recipients. The proposed rules would have prohibited emergency assistance to cover needs over a period in excess of 30 days per year (permitting aid only "to meet the actual expense of needs in existence" during the 30-day period). The proposed rules also would have forbidden the States to include in their standard of need, as a special or basic need, an amount for shelter varied according to the type of housing (for example, house vs. hotel). The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) established a moratorium under which the Secretary of Health and Human Services was directed not to implement the proposed regulations or otherwise modify current policy regarding the subject of those regulations before October 1, 1988.	No provision. (A separate House-passed bill--H.R. 4352 has an identical provision.)	The amendment extends the moratorium on changing current policy regarding emergency assistance and special needs for homeless families to October 1, 1989.

Item	Present Law	House Bill	Senate Amendment
2. Disregard of certain housing assistance for SSI recipients (sec. 423 of the House bill and sec. 612 of the Senate amendment)	Under the SSI program, assistance is provided to needy aged, blind, and disabled persons to bring their income up to certain amounts set in Federal and State law. In determining eligibility and benefit amount, all income of an individual is taken into account unless it is specifically excluded by law. For SSI purposes housing aid provided under the United States Housing Act of 1937 is excluded from consideration as income or resources. The Housing and Community Development Act of 1987 (P.L. 100-242) transferred the authorization of housing assistance for the nonelderly disabled from the United States Housing Act of 1937 to the Housing Act of 1959, effective for projects developed and contracts made with funds appropriated after enactment. P.L. 100-242 did not, however, specifically exclude the consideration of this assistance as income or resources to SSI applicants or recipients under the newly-amended Housing Act of 1959.	The bill amends section 1612(b) of the Social Security Act to exclude from consideration as income or resources of SSI applicants or recipients assistance provided for housing under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, Title V of the Housing Act of 1949, and section 202(h) of the Housing Act of 1959. Effective date.--The provision would be effective as though it had been included in section 162 of the Housing and Community Development Act of 1987 at the time of its enactment.	Same provision.

Item	Present Law	House Bill	Senate Amendment
3. **Moratorium on AFDC quality control sanctions (sec. 421 of the House bill)**	The law prescribes fiscal sanctions (withholding of some program matching funds) for State AFDC payment error rates that exceed tolerances. The law sets the tolerance level at 3 percent for the 50 States and the District of Columbia; regulations set the level at 4 percent for Guam, the Virgin Islands, and Puerto Rico. Fiscal sanctions have been assessed for past erroneous excess payments, but not collected. The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (P.L. 99-272) prohibits the Department of Health and Human Services, until July 1, 1988, from reducing AFDC payments to States for excess errors identified by the AFDC quality control system. COBRA also required that two studies be undertaken (by the National Academy of Sciences and the Secretary of Health and Human Services) to examine how best to operate the quality control system so as to improve program administration and provide reasonable data on which to base sanctions. Both studies were completed in early 1988.	The bill extends the moratorium on collection of quality control disallowances for 1 year, until July 1, 1989, and requires the Secretary of Health and Human Services to submit recommendations for improving the quality control system by February 15, 1989. The bill provides that during the moratorium: (1) The Secretary of Health and Human Services and the States shall continue to operate the AFDC quality control systems and to calculate error rates (maintaining the waiver request and review processes). (2) The Departmental Grant Appeals Board shall continue to review disallowances (for fiscal year 1981 and thereafter) and to hear appeals, but collection of disallowances owed as a result of Board decisions "shall not occur." **Effective date**.--The provision would take effect on July 1, 1988.	No provision. (A similar extension of the moratorium to July 1, 1989, is included in H.R. 1720, as passed by the Congress on September 30, 1988.)

Item	Present Law	House Bill	Senate Amendment
4. **AFDC foster care independent living initiatives (sec. 424 of the House bill and sec. 921 of the Senate amendment)**	The Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) authorized funds on an entitlement basis for State independent living programs, for fiscal years 1987 and 1988, to help AFDC foster care children aged at least 16 make the transition to independence. Eligible are children receiving assistance under the Title IV-E foster care program, which provides Federal aid for foster care maintenance payments. Title IV-E assistance is limited to those foster care children who would have been eligible for AFDC before they were removed from their home and placed in foster care. The Secretary of Health and Human Services is required to submit a report on the program to Congress by July 1, 1988. States are required to submit reports on their programs to the Secretary not later than March 1988. The law provided $45 million in entitlement funds for the program in each of the two fiscal years, but States did not begin receiving funds until July 1987.	The bill extends authority for State independent living initiatives for foster care children for 1 year, through fiscal year 1989, with funding of $45 million. It also makes these changes: (1) Permits States to spend fiscal year 1987 carry-over funds in fiscal years 1988 and 1989. (2) Permits States to use program funds for services for two additional groups of children: any or all children in foster care who are at least age 16 (including those not receiving maintenance payments under Title IV-E) and, for up to 6 months after foster care payments or foster care ends, children previously in foster care and whose care or payments ended when they attained age 16. (3) Prohibits use of program funds for provision of room and board. (4) Modifies the definition of case review under Title IV-E to clarify that the 18-month dispositional hearing must include the services needed to assist a child who has reached 16 make the transition from foster care to independent living. (5) Requires each State to submit a report on the program by January 1, 1989 to the Secretary. Requires the Secretary to report to Congress on the program by March 1, 1989.	Same provision.
		Effective date.--Authority for States to include non-AFDC foster care children in the independent living program and the prohibition on use of funds for room and board would be effective on enactment. Remaining provisions would take effect on October 1, 1988.	Effective date.--Same as the House bill, provided the funds have been appropriated. (Appropriations have been enacted.)

Item	Present Law	House Bill	Senate Amendment
C. Provision Regarding Report of National Commission on Children: **Delay in Commission's Reporting Date (sec. 621 of the Senate amendment)**	The National Commission on Children, authorized under the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203), is required to study and issue a final report by March 30, 1989 (and an interim report on September 30, 1988) with recommendations regarding health of children, social and support services for children and their parents, education, income security, and tax policy. The Commission is composed of 36 members,, with 12 members each appointed by the President, the President pro tempore of the Senate, and the Speaker of the House. No fiscal year 1988 funds were appropriated for the Commission. However, the 1989 Labor-HHS appropriations bill includes $790,000 to fund the Commission. These funds became available as of October 1, 1988.	No provision.	To accommodate the delay in funding for the Commission, the amendment postpones the reporting dates for 1 year. The interim report would be due September 30, 1989 and the final report would be due March 31, 1990.
D. Unemployment Compensation Provision: **Due Dates for Self-Employment Demonstration Projects for Unemployment Compensation Beneficiaries (sec. 422 of the House bill)**	The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) authorized demonstration projects in three States to make available "self-employment allowances" that unemployment compensation claimants could use to set up a business. The allowances are equal in amount and duration to the participant's regular or extended unemployment compensation benefits; but participants are not subject to the usual requirement that they be available to work for another employer. The law requires two reports to Congress on these projects. An interim report is due no later than 2 years after the date of enactment (December 21, 1987), and a final report is due no later than 4 years after enactment.	The bill extends the due dates for reports on the projects. It requires the interim report to be submitted no later than 3 years after the date of enactment of P.L. 100-203 (i.e., by December 21, 1990); the final report, no later than 6 years after enactment of P.L. 100-203 (i.e., by December 21, 1993).	No provision.

Item	Present Law	House Bill	Senate Amendment
E. Medicare and Medicaid Amendments			
1. Hospital payments for catastrophic illness (sec. 801 of the Senate amendment)	Prior to the enactment of the Medicare Catastrophic Coverage Act of 1988, Medicare beneficiaries were eligible for a limited number of hospital days each year; charges for hospital days beyond the limits were the responsibility of the beneficiary. The catastrophic legislation makes beneficiaries eligible for 365 days of hospital care annually. Medicare payments to most hospitals are made under the prospective payment system (PPS), which pays hospitals a fixed amount for each case. Some hospitals (long-term care, childrens', rehabilitation and psychiatric) are exempt from PPS and are paid their costs, subject to target rate-of-increase limits created in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), and can receive bonuses if their costs remain below the limits. Payments to both types of hospitals are based on the average costs of providing Medicare covered services during a base year, indexed forward. These costs did not include the costs of caring for patients beyond their available Medicare days. Under the catastrophic legislation, hospitals will no longer be paid by patients for very long hospital stays, but by Medicare. However, Medicare's current rates do not accommodate the costs of newly available days. The catastrophic legislation requires the Secretary of HHS to make certain changes in Medicare hospital payment rules to reflect lower beneficiary payments to hospitals resulting from the elimination of a day limit on Medicare hospital services. These requirements are meant to ensure that hospitals are not adversely affected by the expansion of Medicare payments. For PPS hospitals, the Secretary is required to take into account as appropriate reduced beneficiary cost-sharing for hospital services under the Act in setting payment rules. For PPS-exempt (TEFRA) hospitals, the Secretary is required to adjust the cost limits for each hospital.	No provision.	Clarifies that adjustments in cost limits for TEFRA hospitals should be made beginning January 1, 1989. As drafted, the catastrophic conference agreement compensates TEFRA hospitals during hospital fiscal years beginning on or after October 1, 1988; some hospitals would receive compensation before they incurred additional costs and others would receive no compensation for as long as nine months. **Effective date.**--Effective as if included in the Medicare Catastrophic Coverage Act of 1988. Also clarifies that TEFRA hospitals must be protected, not only from exceeding the costs limits as a result of catastrophic, but also from any reduction in bonus payments. (This provision was included in H.R. 1720, as passed by the Congress.)

Item	Present Law	House Bill	Senate Amendment
2. **Treatment of certain hospitals as rural hospitals for certain purposes (sec. 802 of the Senate amendment)**	Under the Prospective Payment system (PPS), Medicare pays different rates to urban and rural hospitals. A hospital is urban, and qualifies for higher rates, if it is located in a Metropolitan Statistical Area (MSA) as defined by the Office of Management and Budget. Under the Omnibus Budget Reconciliation Act of 1987 (OBRA), hosp8itals in rural counties meeting certain criteria are considered to be located in an adjacent urban area and qualify for higher Medicare rates, beginning October 1, 1988. Under OBRA, higher payments to hospitals in these redesignated counties are to be financed through an across-the-board payment reduction to rates for all urban hospitals. The Department of Health and Human Services (HHS) has issued prpposed rules setting Medicare hospital payment policy for Fiscal Year 1989. As a result of the changes described above, some hospitals located in urban areas (prior to OBRA) to which new urban hospitals have been added, as well as some rural hospitals, will experience payment reductions (above and beyond the across-the-board adjustment described above) beginning October 1, 1988. This effect occurs in areas where the addition of new hospitals to an urban area, or the deletion of hospitals from a rural area, substantially changed the calculation of the area wage index used in computing PPS payments.	No provision.	Requires the Secretary of HHS to compute the area wage index as though hospitals who qualify for urban status under OBRA's redesignation were still paid as rural hospitals. **Effective date**.--Applies to discharges occuring on or after October 1, 1989.
3. **Demonstration projects with respect to chronic ventilator-dependent units in hospitals (sec. 803 of the Senate amendment)**	The Medicare Catastrophic Coverage Act of 1988 requires the Secretary of HHS to conduct up to five demonstration projects, for up to three years each, of the appropriateness of classifying hospital units that treat chronic ventilator-dependent patients as rehabilitation units for the purposes of the prospective payment system (PPS). (Rehabilitation units are exempt from PPS and are reimbursed on a reasonable cost basis.)	No provision.	Clarifies that the Secretary of HHS is required to conduct at least five demonstration projects for at least three years each. **Effective date**.--Effective as if included in the Medicare Catastrophic Coverage Act of 1988.

Item	Present Law	House Bill	Senate Amendment
4. **Election of personnel policy for commission employees (sec. 804 of the Senate amendment)**	The Omnibus Budget Reconciliation Act of 1987 provided that employees of the Prospective Payment Assessment Commission (PROPAC) and the Physician Payment Review Commission (PHYSPRC) should be treated as Senate employees for administrative purposes.	No provision.	Clarifies that, with respect to PROPAC, this provision is effective only for employees hired on or after December 22, 1987. Personnel hired before this date would have the option to elect to continue under personnel policies in effect previously. All personnel would be required to make a one-time election no later than 60 days after enactment of this amendment. **Effective date.**--Date of enactment.
5. **Increase in authorization for the patient outcome assessment research program (sec. 805 of the Senate amendment)**	The Omnibus Budget Reconciliation Act of 1986 authorized a program of research on patient outcomes of selected medical treatments and surgical procedures for the purpose of assessing their appropriateness, necessity, and effectiveness. The amounts authorized to be appropriated from the Medicare Trust Funds for the program are $6 million for fiscal year 1987, and $7.5 million for each of the fiscal years 1988 and 1989.	No provision.	The authorization is increased to $10 million for fiscal year 1989; provides authorization of $20 million for fiscal year 1990 and $30 million for fiscal year 1991. **Effective date.**--Date of enactment.
6. **Payment adjustments to organizations with risk-sharing contracts (sec. 806 of the Senate amendment)**	When Medicare contracts with a health maintenance organization (HMO) on a risk-sharing basis, the amount of the Medicare pahyment to the HMO is determined prospectively, based on the estimated average costs of providing all covered Medicare services to a beneficiary in the area. Risk-sharing contracts are annual contracts. During the calendar year 1988, the Secretary issued a guideline that changed the eligibility guidelines for extended care services. As a result of the change, more individuals were eligible for extended care services than had been anticipated at the time the payment levels for 1988 were established.	No provision.	Provides that any HMO that experiences increased costs in 1988 due to the change in the extended care benefit eligibility criteria may submit to the Secretary of HHS a revised adjusted community rate for 1988. The Secretary shall review the revised rate within 90 days of submittal, and if he approves the revision he shall make additional payments to the HMO equal to the increase in the adjusted community rate. **Effective date.**--Effective with respect to risk-sharing contracts in effect on or after January 1, 1988.

Item	Present Law	House Bill	Senate Amendment
7. **Fee schedule for payments to certified registered anesthetists (sec. 807 of the Senate amendment)**	Payment for the services of a certified registered nurse anesthetist (CRNA) are currently made under Part A on a cost passthrough basis to hospitals who employ or contract with them, or under Part B to physicians who employ or contract with them. The Omnibus Budget Reconciliation Act of 1986 provided for direct Medicare reimbursement for the services of a CRNA, beginning January 1, 1989. Payment would be made only under Part B and would be equal to 80% of a fee schedule established by the Secretary of HHS. The Secretary was directed to establish the fee schedule at a level such that the total amount paid under the Medicare program for CRNA services, plus applicable coinsurance, would be the same as total payments under the Medicare program would have been under the reimbursement rules as in effect in 1986. The Secretary was further directed to reduce the fee schedule, or the payments to physicians for medical direction of CRNAs, or both, to the extent necessary to ensure that total Medicare payments plus applicable coinsurance for CRNA services and medical direction would be the same as total Medicare payments for those services would have been under the reimbursement rules as in effect in 1986.	No provision.	Clarifies that the comparison between payment levels under the fee schedule and the 1986 reimbursement rules for payment for medical direction and CRNA services should take coinsurance into account on both sides of the equation. Thus, the second comparison described under present law would be between (a) total Medicare payments, plus applicable coinsurance, for CRNA services and medical direction under the 1986 rules, and (b) total Medicare payments for CRNA services and medical direction, plus applicable coinsurance, under the new 1989 rules. Effective date.--Effective as if included in section 9320 of the Omnibus Budget Reconciliation Act of 1986.
8. **Clarification of covered certified nurse midwife services (sec. 808 of the Senate amendment)**	Section 4073 of the Omnibus Budget Reconciliation Act of 1987 provided coverage under the Medicare program for services furnished by a certified nurse-midwife. Covered services are defined as servicers that are authorized under State law to be furnished by a certified nurse-midwife, and that would be covered by Medicare if furnished by a physician. The definition of a nurse-midwife refers to a nurse who "performs services in the area of management of the care of mothers and babies throughout the maternity cycle". The proposed regulations promulgated by the Health Care Financing Administration to implement this provision limit covered services furnished during the maternity cycle, although some State laws allow nurse-midwives to furnish other gynecological services that are not within the maternity cycle.	No provision.	Clarifies that the definition of who qualifies as a nurse-midwife does not limit the covered services to those furnished during the maternity cycle. Effective date.--Effective as if included in section 4073 of the Omnibus Budget Reconciliation Act of 1987.

Item	Present Law	House Bill	Senate Amendment
9. Coverage of psychologist services when provided on-site at a community mental health center or off-site as part of a treatment plan (sec. 809 of the Senate amendment)	The Omnibus Budget Reconciliation Act of 1987 provided for direct payment under the Medicare program for the services of a psychologist furnished at a community mental health center.	No provision.	Clarifies that services of a psychologist will be covered under the 1987 OBRA provision when provided on-site at the community mental health center, and when provided necessarily off-site under the auspices of a clinic as part of the treatment plan. Services provided by a psychologist at his private office away from the clinic would not be covered. Effective date.--Effective as if included in section 4077(b) of the Omnibus Budget Reconciliation Act of 1987.
10. Trip fees for clinical laboratories (sec. 810 of the Senate amendment)	Section 1833(h)(3) of the Social Security Act requires the Secretary of HHS to make special payments with respect to lab specimens that must be collected and brought to the lab. A fee is authorized under section 1833(h)(3)(A) for the cost of collecting the specimen, and a trip fee is authorized under section 1833(h)(3)(B) for travel expenses of trained personnel who must travel to collect a specimen. Trip fees are allowed only for specimens collected from a patient who is homebound or an inpatient in a nursing facility. Most carriers have established trip fees based on average costs, or on the number of miles, or a combination of the two methods.	No provision.	Requires that, in establishing trip fees, all carriers that use a flat fee per trip must also allow the lab the option to bill on the basis of actual mileage. Each carrier would have to implement this requirement in a budget neutral manner. Effective date.--Applies to services furnished on or after January 1, 1989.
11. Requirement of physician care and plan with respect to outpatient physical therapy services limited to the provision of such services to medicare beneficiaries (sec. 811 of the Senate amendment)	Medicare covers outpatient physical and occupational therapy services provided by a provider of services, clinic, rehabilitation agency, or public health agency, and services by a physical or occupational therapist in his office or at the patient's home. The statute requires that the services be provided to individuals who are under the care of a physician, and that the physician establish and periodically review a plan for furnishing the services. The regulations implementing the provision require that the entity furnishing the services must meet the requirements relating to physician care and to the establishment and review of the plan of care by a physician for all its patients, not just for Medicare beneficiaries. Some States have enacted physicial therapy and occupational therapy practice laws that allow a therapist to provide services independently, without a physician referral. However, because the Medicare requirements apply to all patients, the State laws have been in effect superceded by the Medicare requirements.	No provision.	Clarifies that the requirements relating to physician care and establishment and review of the plan of care by a physician apply only to Medicare beneficiaries, and State law would apply to other patients. Effective date.--Effective with respect to services provided after December 31, 1988.

Item	Present Law	House Bill	Senate Amendment
12. Delay in issuance of final regulations concerning the use of voluntary contributions or provider-paid taxes by States to receive Federal matching funds (sec. 812 of the Senate amendment)	The Medicaid program is a Federal-State program under which Federal matching funds are available to States for medical assistance programs that meet specified Federal requirements. The Federal matching rate varies by State based on State per capita income. Under current law, some States use donated funds to provide a portion of the State share, which are then matched by Federal funds. Some states also use funds that are generated from taxes on health care providers to draw Federal matching funds. In the President's proposed budget for fiscal year 1989, the Administration indicated that it would issue regulations to limit the use of donated funds as part of the State share. The regulations have not yet been published.	No provision.	Prohibits the Secretary of HHS from issuing final regulations that change the policy governing the use of donated funds or the use of revenues generated from provider taxes until after February 15, 1989. Proposed regulations could be published before that date. Effective date.--Date of enactment.
13. Formula modification for determining State expenditures under the medicaid long-term care waiver program (sec. 813 of the Senate amendment)	Section 1915(d) of the Social Security Act provides States an option to receive Medicaid funding for home and community-based services for the elderly, subject to limits based on long-term care expenditures (including nursing facility services) during a base year. The base year amount is updated to take into account growth in the elderly population and increases in the cost of services. However, the base year amount is not adjusted to take into account new mandated services or program expansions, such as the spousal impoverishment protections enacted in the Medicare Catastrophic Coverage Act of 1988.	No provision.	Provides that the base year amounts would be adjusted to take into account new services and program expansions mandated by Federal law. Effective date.--Effective with respect to the determination of State expenditures beginning in waiver year 1989.

Item	Present Law	House Bill	Senate Amendment
14. Extension of time period for certain intermediate care facilities for the mentally retarded to submit plans of correection or reduction (sec. 814 of the Senate amendment)	Section 9516 of the consolidated Omnibus Budget Reconciliation Act of 1985 allowed an intermediate care facility for the mentally retarded (ICF/MR) that was subject to a termination action under the Medicaid program to submit a 6-month plan of correction or 36-month plan of reduction as an alternative to decertification. The Department of Health and Human Services did not issue regulations implementing the section until January 25, 1988. The provision is scheduled to sunset on April 6, 1989, three years after the date of enactment of COBRA. The final regulations did not allow the use of the plan of correction or reduction in the case of a facility that was subject to decertification because of failure to provide active treatment.	No provision.	Provides that the option to submit a plan of correction or reduction would be available in any case where there was no immediate threat to the health or safety of the facility residents, including failure to provide active treatment. However, during a plan of reduction, active treatment would have to be provided for the residents who remain in the facility. The sunset date would be extended to January 25, 1991, three years after the final regulations were actually issued. Effective date.--Date of enactment. Applies to any proceeding where there has not yet been a final determination by the Secretary of HHS as of the date of enactment.
15. Nursing facility decertification hearing procedures (sec. 815 of the Senate amendment)	Section 1910 of the Social Security Act provides that a nursing facility that is a party to a decertification proceeding based on a federal look-behind review may continue to participate in the Medicaid program while a hearing on the issue is pending. The Department of Health and Human Services has taken the position that evidence of compliance based on a later federal or State survey may not be admitted at such hearing. Thus a facility may be terminated on the basis of noncompliance that has subsequently been corrected.	No provision .	Provides that in a decertification proceeding, nursing facilities would be allowed to submit evidence of correction of deficiencies based on federal or State surveys conducted after the initial finding of noncompliance. This provision would not apply in the case of intermediate sanctions. While the amendment allows the results of a subsequent survey to be admitted as evidence, such evidence does not preclude a decertification finding. The ALJ would also take into account the facility's record of noncompliance and the extent and likely duration of the compliance exhibited in such subsequent survey. Effective date.--Applies to any proceeding where there has not yet been a final determination by the Secretary of HHS as of the date of enactment.

Item	Present Law	House Bill	Senate Amendment
16. Medicare coverage of medical attendant on commercial airline (sec. 800K of the Senate amendment)	Current Medicare law allows coverage of ambulance service in certain circumstances, including air ambulance service. Current regulations allow coverage of medically necessary transportation on a commercial airline in the State of Alaska when air ambulance service is not available.	No provision.	The Senate amendment provides Medicare coverage for the services of a medically necessary attendant escorting a patient on a commercial airline in those circumstances where coverage of the transportation on the commercial airline is allowed. Effective date.--The provision is effective on the date of enactment.
17. Extension of moratorium on clinical lab demonstration project (Senate amendment)	The Health Care Financing Administration has proposed to conduct a demonstration project that would allow competitive bidding for clinical lab services under the Medicare program. Congress placed a moratorium on the demonstration project in 1985. The moratorium was extended in 1986 and 1987, and is scheduled to expire on January 1, 1989.	No provision.	The Senate amendment extends the moratorium for one additional year, to January 1, 1990. (Floor amendment by Sen. Durenberger, adopted by voice vote.)
18. Medicare coverage of nurses as assistants at surgery (sec. 631 of the Senate amendment)	Medicare provides for direct reimbursement for physician assistants who act as assistants at surgery.	No provision.	The Senate amendment extends this provision to include registered nurses who act as assistants at surgery, subject to the same conditions that apply to physician assistants with some modifications. The provision applies only to registered nurses who are employed by a physician and were so employed as of October 1, 1988, and sunsets on April 1, 1992. The provision would become effective on April 1, 1989, except that it would become effective only if the Secretary of Health and Human Services has promulgated regulations that ensure that the provision will be implemented in a budget neutral manner. The Secretary is required to promulgate those regulations by April 1, 1989. (Floor amendment by Sen. Inouye, adopted by voice vote.) Effective date.--The provision is effective on April 1, 1989, and sunsets on April 1, 1992.